

1 IN THE DISTRICT COURT OF CLEVELAND COUNTY, MISSOURI
STATE OF OKLAHOMA

2

THE STATE OF OKLAHOMA, ex rel.,)
3 W. A. DREW EDMONDSON, in his)
capacity as ATTORNEY GENERAL)
4 OF THE STATE OF OKLAHOMA,)
et al.,)
5)
Plaintiffs,)
6)
vs.) No. CJ-96-1499
7)
R. J. REYNOLDS TOBACCO COMPANY,)
8 et al.,)
9 Defendants.)

10 V O L U M E I (PAGES 1 TO 120)

VIDEOTAPED DEPOSITION OF WILLIAM W. SHINN,

11

produced, sworn, and examined on Tuesday, the 20th
12 day of May, 1997, between the hours of 9:40 AM and
1:00 PM of that day, at the offices of Shughart,
13 Thomson & Kilroy, Twelve Wyandotte Plaza, 120 West
12th Street, in the City of Kansas City, County of
14 Jackson, State of Missouri, before:

15 RITA M. LUPERCIO, CCR, RPR
Certified Court Reporter Certificate No. 218
16 of

JAY E. SUDDRETH & ASSOCIATES, INC.

17

Suite 100

10104 West 105th Street

18 Overland Park, Kansas 66212-5746

19 a Certified Shorthand Reporter in and for the States
of Kansas and Missouri.

20

Taken on behalf of the Plaintiffs pursuant to
21 Subpoena.

22

23

24

25

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13 BY: MR. GERALD E. HAWXHURST
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15 Also Present:
16 Ms. Sandra Burley, Paralegal
17 Mr. John Cline, Videographer
18

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25 EXHIBITS:
SHINN
26 EXHIBIT # DESCRIPTION MRKD IDFD
27 1 Order Granting In Part And 21 21
28 Denying In Part Motions Of
29 Certain Defendants For
30 Protective Order And Order
31 Extending Times For
32 Responses To Discovery
33 Requests And Pending
34 Motions, filed 3-5-97
35 2 Judge Sarokin Opinion 114 114
36 filed 2-6-92

37 6
38 9:40 AM
39 MR. MEYER: I'm Hank Meyer with the
40 State of Oklahoma.
41 Mr. Ward, if I can go over some matters
42 prior to the commencement of this deposition.
43 MR. WARD: Yes, please.
44 MR. MEYER: There is a lawsuit
45 filed in the State of Oklahoma, CJ96-1499L in
46 Cleveland County District Court, styled the State of
47 Oklahoma versus R. J. Reynolds Company, et al, in
48 which Shook Hardy & Bacon has been sued.
49 Mr. Shinn is a former partner of Shook
50 Hardy & Bacon; and, that, in January of 1997, notices
51 were given to Mr. Shinn. And, subsequent to that
52 time, a subpoena was served on Mr. Shinn. And that
53 subpoena was issued here; and that it's my
54 understanding that, at this time, that is what --
55 that was issued and served upon Mr. Shinn around
56 January 27, 1997 here in Kansas City, Missouri;
57 That there were arguments made in the
58 District Court of Cleveland County on February 10 of
59 1997, and February 14 of 1997; and that the Cleveland
60 County District Court had issued an order allowing
61 the depositions of two people who had worked with
62 Shook Hardy & Bacon, one being Mr. Shinn, a former
63 partner, and another one being Mr. McLarney, who is
64 presently a partner there.

3 Prior to that time, you had filed a
4 protective order, in behalf of Mr. Shinn, here in
5 Kansas City, Missouri. And that, pursuant to the
6 order of that Court, the Court had waited on two
7 things: One, for the parties to work out an agreed
8 schedule; and, secondly, for the Court and the State
9 of Oklahoma to make a ruling on these matters, which
10 that Court did on March 5 of 1997, in an order
11 granting, in part, and denying, in part, motions of
12 certain defendants for protective order, and order
13 extending times for responses to discovery and
14 request and pending motions;

15 And that Mr. Shinn is appearing here
16 today under that subpoena; and that this is a
17 jurisdictional deposition; that pursuant to
18 discussions that I've had with you, sir, that
19 Mr. Shinn will only -- will break up his deposition
20 into three days, today being May 20th, 1997, from
21 approximately 9:30 o'clock AM till 1 o'clock PM
22 today; that, tomorrow, May 21, 1997, from 1:30
23 o'clock PM until 5 o'clock PM; and on May 22nd, from
24 9 o'clock AM till 12:30 o'clock PM.

25 And that a further agreement was reached

8

1 with you, sir, that we could utilize two attorneys
2 during this deposition, with the understanding that,
3 whichever attorney started in behalf of the
4 Plaintiffs, whether he or she quit, she or he could
5 not come back in to play at the end of that.

6 This is a phase one of depositions that
7 we have all decided, Plaintiffs and Defendants, to
8 agree to put objections on the record here, instead
9 of calling the Judge every 15 or 20 minutes, to have
10 matters resolved. And that we've termed this, in our
11 conversations, phase one of the depositions, because
12 we are aware that there will have to be probably
13 subsequent rulings made upon different objections
14 that are made.

15 That, under Oklahoma law, that we're
16 aware that it's just not form and substance, but that
17 there will be privilege objections being placed upon
18 the record. And that this is a jurisdictional
19 discovery, our deposition, at this point in time;
20 that we had agreed with these dates and these times,
21 in a manner of accommodating both sides.

22 MR. WARD: Mr. Meyer, I think, to
23 the extent that you've made a statement, I agree with
24 it. I don't want to go over it again, but I will
25 make it absolutely clear that Mr. Shinn appears here

9

1 pursuant to a subpoena issued by the Circuit Court of
2 Jackson County, Missouri in Civil Action No. 97-0417.
3 And that's how he's here today.

4 MR. MEYER: Mr. Ward, we have
5 talked with other attorneys too. I think this is
6 pursuant with counsel here. It is my understanding
7 that an objection, which is made -- that we'll
8 introduce all of ourselves for the record, in just a
9 second. If we could start with you, Mr. Ward, and
10 then go to your left, in that manner, that we'll come
11 back to the Plaintiffs, so that every attorney can
12 state who they are, where they're from, their
13 telephone number, and who they represent, you know,

14 for the record; that we can then commence this
15 deposition;
16 That, secondly, that it is my
17 understanding, for the record, that an objection made
18 by one attorney will be an objection made for all;
19 and that no attorney is cut off to make an objection
20 on the record if he or she is not satisfied with the
21 objection that's been made; and that, at the time you
22 make the deposition, because the number of parties
23 here, if you would please state your name at the
24 time.
25 We will also point it out to you that,

10

1 Mr. Shinn, if you need a break, sir, during this, if
2 you'd let Mr. Ward know or if you'd signify by
3 looking at me, then we'll take a break; and hopefully
4 that it will be done not during the pending of a
5 question, sir.

6 MR. WARD: Yeah, Mr. Meyer, we'll
7 certainly do everything that we can to accommodate
8 that request.

9 Mr. Shinn does have a back problem. So,
10 from time to time, he may get up and stretch, that
11 sort of thing. And that's the precipitating factor
12 on why we're scheduling the deposition as we do.

13 Is Gerry Hawxhurst here yet?

14 MR. HAWXHURST: Yes, I'm here.
15 Thank you.

16 MR. WARD: I wanted to be sure you
17 got here.

18 MR. HAWXHURST: Appreciate it.

19 MR. WARD: My name is R. Lawrence
20 Ward. I'm with the firm of Shughart Thomson &
21 Kilroy. We're here in Kansas City, Missouri, where
22 this deposition is being taken; and I represent
23 William W. Shinn, the witness.

24 MR. SUNDERMEYER: Michael
25 Sundermeyer, with the firm of Williams & Connolly. I

11

1 represent Shook Hardy, and Mr. Shinn in his capacity
2 as a former partner of Shook Hardy.

3 MR. SCARBORO: Jim Scarboro from
4 the Denver office of Arnold & Porter, representing
5 Philip Morris.

6 MR. BERNICK: David Bernick,
7 Kirkland & Ellis, for Brown & Williamson.

8 MR. PADMANABHAN: Ram Padmanabhan,
9 Kirkland & Ellis, representing Brown & Williamson.

10 MR. FORD: I'm Rick Ford from
11 Crowe & Dunlevy. I represent Brown & Williamson,
12 American Tobacco, Batus Holdings, American Brands,
13 and Jacob Medinger & Finnegan.

14 MR. SNIPE: Bill Snipes,
15 Sullivan & Cromwell, I represent Chadbourne & Parke.

16 MR. EISSENSTAT: Eric Eissenstat,
17 Fellers Snider Blankenship Bailey & Tippens,
18 representing Chadbourne & Parke.

19 MR. McDERMOTT: Robert McDermott
20 from Jones Day Reavis & Pogue, representing R. J.
21 Reynolds Tobacco Company.

22 MR. NEWBOLD: Bill Newbold from
23 Thompson & Coburn in St. Louis, representing
24 Lorillard.

1 Hardy & Bacon, Kansas City, Missouri, on behalf of
2 Shook Hardy.

3 MR. NICHOLSON: Don Nicholson,
4 Eagleton & Nicholson, on behalf of The Tobacco
5 Institute.

6 MR. HAWXHURST: Gerry Hawxhurst,
7 Simpson Thacher & Bartlett, for British American
8 Tobacco Company Ltd.

9 MR. FALKENSTEIN: Eric Falkenstein,
10 Debevoise & Plimpton, for CTR, Council for Tobacco
11 Research.

12 MR. ELSTON: Michael Elston of
13 Shughart Thomson & Kilroy, here in Kansas City, on
14 behalf of Mr. Shinn.

15 MR. PENDLETON: E. L. Pendleton on
16 behalf of the Plaintiff, State of Oklahoma, Kansas
17 City, Missouri.

18 MR. MEYER: I'm Henry Hank Meyer.
19 I'm with Pray Walker Jackman Williamson & Marlar,
20 from Oklahoma City, Oklahoma. I represent the State
21 of Oklahoma.

22 MS. MOHANTY: Yasodhara Mohanty,
23 the State of Oklahoma, the Office of the Attorney
24 General.

25 MR. BAKER: I'm Frederick Baker

1 from Ness Motley Loadholt Richardson & Poole, in
2 Charleston, South Carolina. We represent the State
3 of Oklahoma.

4 MS. BURLEY: I'm Sandra Burley, a
5 paralegal with Ness Motley.

6 MS. NIAL: I'm Susan Nial, Ness
7 Motley, representing the State of Oklahoma.

8 MR. MEYER: Ms. Nial, for the State
9 of Oklahoma.

10 MS. NIAL: If we're ready to
11 proceed with the question.

12 MR. WARD: I believe we are.

13 WILLIAM W. SHINN,
14 of lawful age, having been first duly sworn to tell
15 the truth, the whole truth, and nothing but the
16 truth, testified as follows:

17 EXAMINATION BY MS. NIAL:

18 Q. Mr. Shinn, good morning.

19 A. Good morning.

20 Q. I informally introduced myself to you
21 earlier. And we're here to do a deposition, which
22 I'm sure you're well aware of what depositions are
23 for, as you are an attorney. But if you would let me
24 just go over a few things with you so that you and I
25 are both on the same page while we're going through

1 this deposition.

2 First of all, I'm not here to harass you
3 or embarrass you. I just want to get some
4 information. So if we both understand what my goal
5 is here today, then maybe you can understand the
6 points of my questions.

7 If I speak too quickly or unclearly, let
8 me know and I'll try to speak up or slow down. If
9 you don't understand a question that I've asked you,

10 please let me know, because, otherwise, I will assume
11 that you've understood my question and that you're
12 trying to be responsive.

13 I recognize that you do have a back
14 problem, so I will try to note when you need a break
15 and we'll try, within the context of what we talked
16 about, let you get up and walk around, so that you're
17 as comfortable as possible. We recognize your
18 medical problem.

19 And as to the breaks, as we've said, if
20 we can hold them till the questions are answered,
21 that will be very helpful.

22 I wonder if you could give your full name
23 for the record, please, Mr. Shinn.

24 A. Yes. My full name is William Wayne
25 Shinn.

15

1 Q. And your current address, please.

2 A. [DELETED]

3

4 Q. Do you have a business address,
5 Mr. Shinn?

6 A. Not now.

7 Q. Are you taking any medication for your
8 back today, that might interfere with your ability to
9 do this deposition?

10 A. Probably not. I discovered an abscessed
11 tooth over the weekend, and so I am taking an
12 antibiotic. I don't think it's going to interfere.
13 Unfortunately, while he was looking at the abscess,
14 he noticed I had a cap loose, or something, on
15 another tooth. So yesterday was a lovely day.

16 Q. Well, we'll try to make this day a little
17 less uncomfortable than your visit to the dentist
18 yesterday.

19 I wonder if we can have your home phone
20 number for the record, please, Mr. Shinn.

21 A. Area code is [DELETED]

22 Q. And I assume you have no work number.

23 A. No. I am glad to give you Shook Hardy's
24 number because, usually, somebody would forward
25 messages on. But the home number is, I would think,

16

1 preferable, if you need to talk to me. Otherwise,
2 the firm number is same area code, 474-6550.

3 Q. Thank you. And your Social Security
4 number, please.

5 A. [DELETED] I think.

6 [DELETED] Got it.

7 Q. Got it. And your birth date please, sir.

8 A. Is April 21, 1928.

9 Q. And are you married, Mr. Shinn?

10 A. Yes.

11 Q. Can we have your wife's name please.

12 A. Yes. Jeanne.

13 Q. And do you have any children?

14 A. Four children.

15 Q. And their ages?

16 A. Well, they range downward with our son,
17 about 40; and our eldest daughter around 38; and the
18 next daughter, 36 or 37; and the next daughter would
19 be 34, 35. I see them regularly, but I've never been
20 too good on remembering exactly how old they are.

21 Q. Any grandchildren, sir?
22 A. Yes.
23 Q. How many?
24 A. 10.
25 Q. Whoa. Congratulations.

17

1 A. They're lovely.
2 Q. I won't ask you their age.
3 Mr. Shinn, did you prepare in any way for
4 this deposition?
5 A. I met with -- I'll call him Mike.
6 Q. Mr. Sundermeyer?
7 A. Mr. Sundermeyer, Mr. Voigts, Gene Voigts;
8 and with Larry, Mr. Ward. Now, there would have
9 been, from time to time, others come in. But that
10 would have been for relatively short periods of time.
11 Q. Where did you prepare for the deposition,
12 sir?
13 A. The meetings that I had were at the
14 office of Shook Hardy & Bacon.
15 Q. And how much time did you spend preparing
16 for the deposition?
17 A. Well, we limited the sessions, so I
18 can't -- I probably can't give you a completely
19 accurate answer. We might go anyplace from two to
20 three to four hours, or a little more, depending on
21 when we got started. Maybe eight, nine, ten
22 sessions, spread out.
23 Q. When you were doing this preparation, did
24 you review any documents?
25 A. I did not.

18

1 Q. Review any depositions?
2 A. I did not.
3 Q. And did you review, for example, the
4 complaint in this case?
5 A. Yes. Well, let me be more accurate. I
6 scanned the complaint or petition.
7 Q. And did you note the instances in the
8 complaint where your name was mentioned?
9 A. Well, I probably did. I can't tell you,
10 right now, where they might have been.
11 Q. And when you were scanning the complaint,
12 did you discuss the substance of the complaint with
13 Mr. Sundermeyer, Mr. Voigts, or Mr. Ward?
14 A. I don't think so. I really don't believe
15 we talked about the complaint, as such. It was given
16 to me as this is what the lawsuit's about.
17 Q. Did you take away a copy of the
18 complaint?
19 A. I had a copy, yes.
20 Q. And do you have it? Did you take it with
21 you, take it home?
22 A. It's either at home or at the office.
23 Q. And when you say at the office, do you
24 have an office at Shook Hardy?
25 A. Well, there is a retired lawyers office,

19

1 and there -- you know, it's there for our use. I
2 have not used it very much. I could also leave
3 materials with one of the receptionists or
4 secretaries. And the reason that I'm uncertain in
5 this instance, is because I don't remember whether I

6 brought it back or not.
7 I don't think so. It's probably still at
8 home, someplace.
9 Q. When you met with Mr. Sundermeyer and
10 Mr. Voigts, was Mr. Ward always there?
11 A. No.
12 Q. Who is your personal attorney in this
13 matter?
14 A. Mr. Ward.
15 Q. And what is your relationship with
16 Mr. Sundermeyer, Mr. Voigts?
17 A. They are, in my view, also my attorneys,
18 as a former member of the firm of Shook Hardy &
19 Bacon. So I view all three of them as my attorneys.
20 Q. So would you say, from what we've talked
21 about, two to four hours each session, about eight to
22 ten sessions, that would be about 40 hours, somewhere
23 in there?
24 A. It could be. I would -- I think I'd be
25 guessing if I said that it was less than 40 or a
20
1 little more than 40. But I've told you the -- pretty
2 much, the number of times that we met. And that the
3 amount of time would vary. So that's why I'm not
4 very precise.
5 Q. Did any of the lawyers, at those
6 meetings, inform you what the substance of this
7 deposition would be?
8 MR. SUNDERMEYER: Object and
9 instruct the witness not to answer. That invades the
10 attorney-client privilege and the work product
11 doctrine and common interest privilege.
12 MR. WARD: I make the same
13 objection, in terms of discussions between myself, as
14 attorney for Mr. Shinn, and the witness; and instruct
15 you, you need not answer that question.
16 Q. Are you aware of what the substance of
17 this deposition is?
18 MR. SUNDERMEYER: Object to the
19 form. Same objection to the extent that it calls on
20 the witness to reveal the substance of any
21 attorney-client communication.
22 Q. Did you listen to Mr. Meyer's
23 introductory comments, in which he discussed a March
24 5th order issued by the Court in Oklahoma?
25 A. Well, I listened. Probably not as close
21
1 as I would have if I had been my lawyer.
2 Q. I wonder if I could show you a document,
3 then, sir. It is a copy --
4 MS. NIAL: If I could give the
5 document, to the witness --
6 MR. WARD: Sure.
7 Q. -- a copy of that March 5th order.
8 MS. NIAL: John, would you need a
9 copy?
10 (Whereupon, Shinn Deposition
11 Exhibit No. 1 was marked for
12 identification.)
13 MR. WARD: Is there a pending
14 question?
15 MS. NIAL: Yes. I wanted to give
16 the witness an opportunity to look at the document.

17 Q. (By Ms. Nial) Mr. Shinn, have you ever
18 seen this document before?
19 A. I don't remember seeing it.
20 Q. Have you had an opportunity to review the
21 document, Mr. Shinn?
22 A. Well, yes. It's -- I don't know if I can
23 answer questions about it, without looking at it
24 again.
25 Q. Oh, sure. No problem. I'm just going to
22
1 ask you, if you would, to look at paragraph 3 of the
2 document, and just ask you to read paragraph 3.
3 A. Further, the Court is not persuaded -- is
4 that the right one?
5 Q. Yes.
6 A. Further, the Court is not persuaded that
7 conspiracy-based jurisdiction is proscribed by
8 Oklahoma law; and in the exercise of its judicial
9 discretion, rules that Oklahoma may base personal
10 jurisdiction on a conspiracy-based theory, where the
11 facts warrant same, and where the public interest is
12 great, without prejudice, reconsidering this issue
13 when jurisdictional discovery is complete. The Court
14 also declines to -- want me to go on?
15 Q. You can finish the paragraph.
16 A. The Court also declines to certify this
17 question at this time, but will reconsider
18 certification of this question, when the Court rules
19 on motions to dismiss, if appropriate.
20 Q. Are you aware that this particular order,
21 regarding conspiracy-based jurisdiction, has been
22 upheld by the Supreme Court of Oklahoma?
23 MR. SUNDERMEYER: Object to the
24 form.
25 A. Am I aware of that?
23
1 Q. Yes, are you aware.
2 A. I'm not aware of it.
3 Q. Are you aware that this is a
4 jurisdictional deposition?
5 A. Well --
6 Q. Deposition that you're involved in right
7 now is to determine information regarding the
8 jurisdiction of the Oklahoma Court over the law firm
9 of Shook Hardy & Bacon.
10 A. Well, that's what I've been told.
11 Q. So you are aware of that.
12 A. Uh-huh. And I think that was in some of
13 the introductory remarks, probably.
14 Q. Did you choose your personal attorney,
15 Mr. Shinn?
16 A. Yes.
17 Q. Are you paying for his services?
18 MR. WARD: Well, now, I object to
19 that as immaterial to any issue in this case, and
20 invasive of the attorney-client relationship, and
21 privileged.
22 And instruct you, you need not answer
23 that question.
24 MS. NIAL: I wonder if you are
25 specifically identifying each of those instructions
24
1 not to answer.

2 THE REPORTER: (Nodded head.)
3 Q. Do you have any kind of indemnity
4 agreement with Shook Hardy & Bacon?
5 A. I don't know.
6 Q. Has Shook Hardy & Bacon agreed to pay any
7 of the fees involved in this deposition for you?
8 MR. WARD: Before you answer that.
9 To the extent that that question calls -- it's
10 generally stated fees. To the extent that that calls
11 for information regarding attorneys fees, payable to
12 me as Mr. Shinn's personal attorney, I object to it
13 as invasive of the attorney-client privilege.
14 And instruct you, you need not answer
15 that question.
16 Q. Have you ever testified before Congress
17 on a tobacco-related issue, Mr. Shinn?
18 A. Well, I don't remember if I did.
19 Q. Do you know whether any representative of
20 the law firm of Shook Hardy & Bacon, during the time
21 period that you were with the firm, testified before
22 Congress on a tobacco-related issue?
23 A. I don't.
24 Q. Have you ever been subpoenaed to a grand
25 jury proceeding?

25

1 A. Let's see. I'm not sure I was
2 subpoenaed -- and I know I'm overanswering the
3 question in a way. But, one time, in Clay County,
4 there was some sort of an inquiry, and I was
5 representing one of the cities, and I did go and talk
6 to some of the grand jurors.
7 I don't know whether I was subpoenaed or
8 asked to come.
9 Q. And you've never been subpoenaed to speak
10 to any grand jury relating to tobacco-related issues.
11 A. No -- well, no, I haven't.
12 Q. Have you ever been the subject of an
13 ethics complaint?
14 A. No.
15 Q. Have you ever been reprimanded or
16 disciplined by any Bar?
17 A. No.
18 Q. And have you been convicted of any crime?
19 A. No.
20 Q. Have you been deposed before, Mr. Shinn?
21 A. I don't think so. I don't remember any
22 occasion when I was deposed.
23 Q. I wonder if you could tell us a little
24 bit about your educational background, Mr. Shinn.
25 A. I took an AB degree from what was

26

1 Northeast -- called Northeast -- it became Northeast
2 Missouri State University. It was part of the
3 university system. I took an LLB, which is what we
4 got in those days, from the University of Missouri at
5 Kansas City. And then, after I came to Kansas City
6 on a part time basis, I attended night school at the
7 University of Missouri at Kansas City, may have been
8 the Kansas City School of Law at that time, and took
9 an LLM.
10 Q. What's your LLM in, sir?
11 A. It was in municipal government. Now,
12 that's my recollection. It's been a while, and I

13 can't tell you exactly when I got that. But part of
14 it was tied in with my teaching. I had also taught,
15 part time. I was full time with the law firm. So
16 this was done on an evening basis.

17 Q. And you graduated from law school when,
18 do you recall?

19 A. In 1952.

20 Q. And do you have any specific scientific
21 education or background?

22 A. Well, other than what might have been
23 courses in high school or college, no.

24 Q. Where did you teach?

25 A. I taught at the, then, Kansas City School
27

1 of Law, which later became associated with the
2 Missouri University system.

3 Q. And what was the subject that you taught,
4 or subjects?

5 A. Well, the one I remember is teaching
6 personal property. And I think I taught security
7 transactions. These were not areas that I was
8 practicing in, but those are the areas where the
9 school needed a faculty member.

10 Q. Were you an adjunct professor?

11 A. I'm not sure what I was. I was a
12 teacher, and taught in the regular night law school.

13 Q. So you graduated from law school in 1952.
14 Is that the same year you became a member of the Bar?

15 A. Yes.

16 Q. And how many Bars are you a member of?

17 A. Well, the Missouri Bar, Western District;
18 Federal Court, Eighth Circuit, Supreme Court.

19 Q. U. S. Supreme or Missouri?

20 A. U. S.

21 I would have been admitted to the Supreme
22 Court of Missouri, and the Appellate Courts.

23 Q. So the only state Bar that you're
24 admitted to is the State of Missouri?

25 A. I think that's right.

28

1 Q. When did you start working at Shook
2 Hardy & Bacon?

3 A. Would have been in 1956.

4 Q. Where did you work before Shook Hardy?

5 A. I was in the Air Force.

6 Q. Were you a lawyer in the Air Force?

7 A. Yes. I was in JAG.

8 Q. Where were you stationed when you were in
9 the Air Force?

10 A. I was stationed at Wright Patterson Air
11 Force Base, and Montgomery, Alabama; and the United
12 Kingdom.

13 Q. And when you started at Shook Hardy &
14 Bacon in 1956, you came on as an associate, I assume,
15 correct?

16 A. Yes.

17 Q. What kind of work did you initially do at
18 Shook Hardy?

19 A. Well, in a way, since it was a relatively
20 small firm, I would do a little of whatever I was
21 asked to do. But my primary interest was in
22 litigation, and that was the major part of my work.

23 Q. How large was Shook Hardy in 1956?

24 A. 9 or 10, maybe.
25 Q. Was the elder Mr. Hardy already there?
29
1 A. Yes.
2 Q. And I assume that, as it was called Shook
3 Hardy, he was one of the named partners.
4 A. Yes, he was a named partner. Some of the
5 other names were different. It wasn't Shook Hardy &
6 Bacon. But he was a named partner, as I recall, at
7 the time.
8 Q. Do you remember what the previous name of
9 Shook Hardy was?
10 A. It was Sebree Shook Hardy and -- there
11 was a partner who had just gone on the bench. His
12 name was not -- his name was in the firm name. When
13 he went on, it became -- so it was probably, when I
14 went there, Sebree Shook Hardy and Ottman.
15 Q. Was Shook Hardy, Sebree Shook Hardy and
16 Ottman, doing any tobacco-related work when you
17 joined the firm --
18 A. No.
19 Q. -- in 1956? When did you become aware
20 that Shook Hardy was doing work for tobacco
21 companies?
22 A. At about the same time that we were
23 hired.
24 Q. Were you an associate at the time?
25 A. I think I was still an associate, yes.

30

1 Q. And about what year, do you recall?
2 A. Late 50's.
3 Q. And by what tobacco company was Shook
4 Hardy first hired, do you know?
5 A. Philip Morris.
6 Q. Do you recall which partner was in charge
7 of that Philip Morris account?
8 A. David R. Hardy.
9 Q. And as an associate, did Shook Hardy and
10 its predecessor, whose name you've just given me, did
11 they have associates work closely with one particular
12 partner?
13 A. That's generally the way it worked. As
14 you probably know, when you go into a firm as a new
15 associate, you may work for several partners, until
16 things settle down a little bit. And I worked,
17 primarily, with David R. Hardy.
18 Q. So you worked --
19 A. Not exclusively, but primarily.
20 Q. So you worked on the Philip Morris
21 account when it initially came into the firm?
22 A. I can't tell you when I was asked to work
23 on that account. There may have been someone else
24 helping Dave with it, prior to the time that I
25 started to work with him on it. But it wouldn't have

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1 been a long period of time that I began to do some
2 work on that case.
3 Q. When did you become a partner at Shook
4 Hardy?
5 A. Well, I should remember that, definitely,
6 but it was either -- '60 or '61.
7 Q. By the time you were a partner, had the
8 tobacco practice, if I can call it that, grown?

9 A. I don't think so. I think we were
10 representing Philip Morris in the case pending in
11 Kansas City.
12 Q. Which case was that, sir, do you recall?
13 A. It was called Ross versus Philip Morris.
14 I think Philip Morris was the only defendant.
15 Q. Do you recall if there were any other law
16 firms involved on the defendant's side in the Ross
17 versus Philip Morris case?
18 A. Yes.
19 Q. Do you recall which firms those were?
20 A. The -- well, I called it the Caldwell
21 firm, but I think it -- I think the names now are
22 Blackwell Sanders and something else, perhaps.
23 Mr. Caldwell was active in that case, for a period.
24 Q. Any other firms involved?
25 A. Well, there was a Mr. Enggas, who is a

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1 senior lawyer in town, and I'm not sure what the firm
2 would have been called. Watson Ess Marshall and
3 Enggas maybe? I mean I'm giving you old names. I
4 don't know what it is now. But it's identifiable
5 from that, I'm sure.

6 Q. Any law firms from outside Kansas City?
7 MR. SCARBORO: Ms. Nial, can you
8 tell me what this has to do with discovery on
9 jurisdiction.

10 MS. NIAL: Trying to establish the
11 relationship between Shook Hardy and the tobacco
12 industry and the tobacco companies, how far it goes
13 back.

14 MR. SCARBORO: Well, you're
15 certainly entitled to ask background questions, and I
16 hope you will and proceed. But I just want to say,
17 for the record, that this is a deposition that
18 concerns jurisdiction. And, at some point here,
19 fairly soon, I hope you will get to some questions
20 about jurisdiction, because that's what we're here
21 for.

22 Q. (By Ms. Nial) Do you remember any other
23 law firms that were involved outside of Kansas City
24 in this case?

25 A. There was a law firm in New York. And

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1 the name of the lawyer that I remember was Mr. Hewit.
2 I'm sure, at one time, I could have told you what the
3 name of the firm was, but I do remember Mr. Hewit,
4 and he may have been the main partner.

5 Q. Do you remember whether or not you worked
6 with any lawyers from The Council For Tobacco
7 Research during the Ross versus Philip Morris case?

8 MR. SUNDERMEYER: Object to the
9 form.

10 A. I don't remember any.

11 Q. When did you leave Shook Hardy & Bacon?

12 A. I officially retired -- well, I went on
13 medical disability/retirement, whatever it was, in --
14 at the end of 1990. And for all intense and
15 purposes, was not able to go back. I think the
16 official date -- I'm not sure of the official date of
17 my retirement, but it might be two or three years
18 later. But that was the demarcation point.

19 Q. Would it be fair to say that, after 1990,

20 you didn't participate in the work of the firm as a
21 full partner?

22 A. That would be fair.

23 Q. Do you currently consult with Shook
24 Hardy & Bacon on any issues involving tobacco
25 litigation?

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1 A. You mean do I have a consultancy of some
2 sort with them?

3 Q. Yes.

4 A. No.

5 Q. Do you consult with any other law firm on
6 tobacco-related issues?

7 A. No.

8 Q. When you were at Shook Hardy & Bacon
9 during this -- I guess you were there almost 30
10 years, a little over 30 years, did you ever have
11 occasion to do public speaking on tobacco-related
12 issues?

13 A. Public speaking?

14 Q. Did you make speeches, go to visit
15 organizations.

16 A. Well, I would certainly address, let's
17 say, a group that might be gathered together at the
18 Tobacco Institute. I would sort of fill them in on
19 what's going on with regard to -- primarily the
20 litigation.

21 As far as being a speaker, going out and
22 making a lot of talks, I didn't do that.

23 Q. Did Shook Hardy, at any time, during the
24 time that you were there, represent the Tobacco
25 Institute?

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1 A. I believe we represented the Tobacco
2 Institute.

3 Q. Do you recall when that representation
4 began?

5 A. I can't tell you when -- I mean I do not
6 know when it began.

7 Q. Were you, or any of the members of the
8 Shook Hardy & Bacon firm, members of any committees
9 of the Tobacco Institute?

10 A. Yes.

11 Q. Can you tell me what those committees
12 were, sir, and who, at Shook Hardy & Bacon, were on
13 those committees.

14 A. I may not be able to be complete, but I
15 can tell you that we advised the Committee of
16 Counsel. And I think Dave attended a number of their
17 meetings, and I did, later, also. And there was
18 another committee called the Communications
19 Committee. Could be others. I'd say those are the
20 two main committees.

21 And we may have been members, we may have
22 been there as counsel. In any event, we were there
23 to advise.

24 Q. When you gave this advice to the
25 Committee of Counsel, who were the members of the

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1 Committee of Counsel?

2 A. I'll do better giving you the names of
3 companies.

4 Q. Okay. Why don't we try that first.

5 A. Is that okay? Well, we'll start with
6 Philip Morris, R. J. Reynolds -- some of these names
7 may have changed -- American Tobacco, Brown &
8 Williamson, Lorillard, and I think Liggett.

9 MR. NICHOLSON: Counsel, Don
10 Nicholson on behalf of the Tobacco Institute. Would
11 you mind speaking just a little louder.

12 MS. NIAL: I will try my best.

13 Q. The members of the Committee of Counsel,
14 that you've identified by tobacco company names, were
15 they lawyers?

16 A. Yes.

17 MR. SCARBORO: Excuse me for
18 interrupting, Mr. Shinn.

19 Ms. Nial, if you are here to take a
20 deposition on jurisdiction, which I believe is the
21 scope of what you're entitled to do here today, I
22 wish you would get to the questions that relate to
23 jurisdiction so that we can have some insurance that
24 this deposition is going to relate to what it's
25 supposed to relate to, according to the Judge's

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1 order.

2 I don't want to shut down background
3 questions, and I understand the necessity of asking
4 background questions, but I'm getting the feeling
5 that the purpose of this deposition has very little
6 to do with asking questions about jurisdiction.

7 I say that without instructing the
8 witness not to answer at this point in time. But if
9 questions continue that have no obvious relationship
10 to the issue of jurisdiction, then it is going to be
11 our position that you're not entitled to ask those
12 questions at this phase. Maybe a later phase, maybe
13 some other time, but not in this phase.

14 So it's just a caution. And maybe you
15 can explain to me what these questions do have to do
16 with jurisdiction, and then I'll be, you know,
17 certainly glad to have you go forward with them. But
18 I don't see it.

19 MS. NIAL: I just refer you to
20 paragraph 3, I believe it is, in the order.

21 MR. SCARBORO: I've got it in front
22 of me and, to say, that answers no question. In
23 fact, let me just give you my interpretation of
24 paragraph 3 of the Court's order. Paragraph 3 of the
25 Court's order permits you to inquire pursuant to the

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1 compromised proposal that the Plaintiff made. I
2 think the Court has the wrong date with regard to
3 that compromised proposal.

4 But the compromised proposal, in essence,
5 embodies certain requests for admission and certain
6 requests to produce documents, which I believe define
7 the scope of this deposition here today. All of the
8 requests to admit, that are mentioned in that
9 proposed compromised proposal, and all of the
10 requests to produce documents, are questions
11 specifically related to Shook Hardy contacts with
12 Oklahoma, either independent of tobacco litigation or
13 through some other theory.

14 I see nothing in the questions that
15 you're asking, right now, that has anything to do

16 with Shook Hardy & Bacon's relationship with the
17 State of Oklahoma, either through a conspiracy theory
18 or in any other fashion.

19 So I just -- so, in my view, you are not
20 complying with paragraph 3 of the Court's order.

21 MS. NIAL: Thanks.

22 MR. SCARBORO: You're welcome.

23 MR. WARD: Would this be a decent
24 place to take a short break.

25 MS. NIAL: Sure. Why not.

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1 (Brief recess taken.)

2 Q. (By Ms. Nial) Mr. Shinn, I hope you
3 enjoyed your little break.

4 A. I did.

5 Q. We were talking about the Tobacco
6 Institute. You said that, in fact, at some point in
7 time, Shook Hardy & Bacon did represent the Tobacco
8 Institute; is that correct?

9 A. That's correct.

10 Q. Do you recall exactly what year that
11 representation began?

12 A. I don't.

13 Q. We were talking about the Committee of
14 Counsel. And Mr. Hardy, did he attend the Committee
15 of Counsel on a regular basis?

16 A. Fairly regular, yes.

17 Q. When Mr. Hardy did not attend, were you
18 the person from Shook Hardy that attended those
19 meetings?

20 A. It could be me in attendance. I could be
21 the one. There could be someone else.

22 Q. Are you aware of the date when the
23 Committee of Counsel was founded or organized within
24 the TI?

25 A. No. I think it was before my time,

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1 maybe, knowing about the Tobacco Institute. I'm not
2 sure of that. But just to help you out, I can't tell
3 you. I don't know.

4 Q. Are you aware of whether or not there was
5 a Committee of Counsel at any time outside of the
6 organization called the Tobacco Institute?

7 MR. SCARBORO: Ms. Nial, let me
8 interrupt just for a moment to ask you a question.
9 Can you point out for me what particular item, in the
10 discovery request proposed by the Plaintiff, these
11 series of questions you're asking now falls within.

12 MS. NIAL: I, A, don't think that
13 that's something that I have to do; and I think, B,
14 I've already referenced the order and the section of
15 the order that I believes gives us the right to ask
16 these kinds of questions.

17 You've put your position on the record
18 regarding these kinds of questions. And I would
19 assume that we will go forward with this deposition,
20 with these questions, and you can raise your
21 objections with the Judge at some point in time.

22 MR. SCARBORO: So your answer is
23 you decline to specify any further, other than just
24 to cite paragraph 3 of the Court's order?

25 MS. NIAL: I've done that as -- I

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1 guess as a courtesy to you. I don't think I have to
2 go any further.

3 MR. SCARBORO: Well, I appreciate
4 the courtesy. And I'm just asking; and you're saying
5 you won't go further. I understand that. But I've
6 given you the opportunity.

7 MR. BERNICK: This is David
8 Bernick. I'm just interested, Ms. Nial, in the same
9 question, myself. As I look at this order, there are
10 operative paragraphs that were entered, pursuant to
11 the motion for protective order; and they say:
12 Deposition discovery will be limited to witnesses
13 requested by, and be limited in scope, the
14 jurisdictional discovery as described in the
15 compromised proposal.

16 All we're asking for is what part of that
17 compromised proposal do your questions relate to.

18 MS. NIAL: I guess if I was being
19 deposed --

20 MR. BERNICK: If you won't even
21 give us the courtesy of telling us --

22 MS. NIAL: That might be something
23 to do. I'm not interested in -- not really
24 interested in getting into a debate with you or
25 Mr. Scarboro or anybody else about the questions that
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1 we're allowed to ask this witness.

2 If you have a problem with the questions,
3 the scope of the deposition, you've put your
4 objections on the record, and we can take that up
5 with the Judge at a later date. I'd like to move on.
6 We only have so much time with Mr. Shinn because of
7 his medical problems, and I'd like to get this
8 deposition moving.

9 MR. BERNICK: I'm sorry to have
10 interrupted. I think that one of the things we can
11 accomplish in the discovery process is to have a
12 mutual understanding of how we're trying to comply
13 with the Court order. And where I come from, that's
14 kind of a minimum. And all that we're really asking
15 is how you view this to be in compliance with the
16 Court order. If you don't want to tell us, you're
17 obviously free to do that and save your arguments
18 before the Court, but that's the force of the
19 question that we're putting to you. That's pretty
20 straightforward.

21 MR. MEYER: This is Mr. Meyer for
22 the Plaintiffs. And that, specifically, I think that
23 Ms. Nial's sufficiently set out that it is in
24 compliance with the Court order of March 5 and is
25 also in compliance with the February 10 arguments;
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1 the February 14 of 1997 arguments; that the petition
2 that was filed in this case, all of the statements
3 that were made by the Court, who certainly understood
4 that we were going to go into these matters; and that
5 if we can try to get moving, with respect to go ahead
6 and have any objections placed without voluminous
7 speaking objections, I'd be grateful, because we only
8 do have limited time.

9 MR. SCARBORO: Go ahead, Ms. Nial.

10 Q. (By Ms. Nial) Mr. Shinn, I'll try to
11 repeat the question, if I can remember it. I believe

12 I was asking you whether or not you were aware of a
13 Committee of Counsel that was organized outside of
14 the organization called the Tobacco Institute.

15 A. I have no recollection whatsoever of a
16 separate Committee of Counsel outside the Tobacco
17 Institute.

18 Q. Thank you. Then, speaking only then of
19 the Committee of Counsel within the Tobacco
20 Institute, could you tell me what the purpose of that
21 Committee of Counsel was.

22 MR. SCARBORO: I'm going to object
23 on the ground that this exceeds the scope of a
24 jurisdictional deposition, a deposition that we
25 understand the Court has permitted to go forward in

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1 this case at this point in time.

2 We've made speaking objections only for
3 the purpose of trying to elicit some understanding of
4 what's going on here so that, if we're wrong about
5 making these objections, we can have a chance to
6 correct it here.

7 But, with the explanations that have been
8 given so far, it seems obvious to me that this
9 exceeds the scope of the jurisdictional deposition,
10 and we would instruct the witness not to answer the
11 question.

12 MS. NIAL: Okay. Thank you.

13 Q. (By Ms. Nial) Are you going to follow
14 the directions of counsel not representing you, in
15 not answering the question?

16 MR. WARD: I'd make the same
17 request and instruction of the witness.

18 A. Yes, on advice of counsel.

19 Q. And are you claiming any privilege, at
20 all, to this information, Mr. Shinn?

21 A. I've been --

22 MR. SCARBORO: You're asking the
23 particular question that's been asked, what was the
24 purpose?

25 MS. NIAL: I'm asking Mr. Shinn a

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1 question if he's claiming any privilege.

2 MR. SCARBORO: With regard to this
3 particular question?

4 MS. NIAL: For not answering the
5 question.

6 MR. SCARBORO: Can we have the
7 question back, please.

8 (Whereupon, the requested portion
9 of the record was read by the reporter.)

10 Q. (By Ms. Nial) Are you claiming any
11 privilege to that information, Mr. Shinn?

12 MR. SUNDERMEYER: Object to the
13 form of the question. The problem -- this is a
14 problem we will have with all of the Shook Hardy
15 lawyers, and including Bill, which is we've got an
16 ethical obligation not to reveal confidences and
17 secrets, if the clients request that we not.

18 And so it's not exactly a -- it's not an
19 attorney-client privilege. But the position we find
20 ourselves in, once the client objects and asks the
21 witness not to answer, is that the Shook Hardy
22 lawyers will need to abide by that, on that specific

23 question, until we get a Court order. So that's, I
24 think, the technical legal position in which the
25 lawyers find themselves.

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1 MS. NIAL: As I understand the
2 technical legal position, just so it's clear what the
3 Plaintiff's position is, that the witness is being
4 instructed not to answer based on a relevance
5 objection. I don't think that's an appropriate
6 instruction not to answer, but I'm just making the
7 record on that, and we'll move on.

8 MR. WARD: Well, having heard the
9 objection by counsel for Philip Morris, it's my
10 understanding that this client's objection causes me,
11 now, to object on the basis that this question
12 invades the attorney-client privilege between
13 Mr. Shinn and his former client; and the attorney
14 work product privilege; and I therefore object on
15 those two bases, and instruct the witness he need not
16 answer the question.

17 MR. SCARBORO: And I want to state,
18 for the record, on behalf of the Defendants, that
19 they too object, not merely that this exceeds the
20 scope of the deposition, but that it invades or
21 potentially invades the attorney-client privilege,
22 the work product privilege and, furthermore, that the
23 clients do not consent, as required by Rule 1.6 of
24 the Missouri Rules of Ethics, to Mr. Shinn testifying
25 with regard to information relating to his

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1 representation of Philip Morris and other tobacco
2 companies, without their permission, and that
3 permission is not given.

4 Q. (By Ms. Nial) Mr. Shinn, I wonder if you
5 can tell me when you were advising the Committee of
6 Counsel -- I'll back up.

7 Can you remember any of the names of the
8 counsel who were members of that Committee of Counsel
9 that was a part of the Tobacco Institute?

10 MR. SCARBORO: Same series of
11 objections, exceeds the scope of a jurisdiction
12 deposition, plainly; violates or potentially violates
13 the attorney-client privilege, the work product
14 doctrine, and Rule 1.6 of the Missouri Rules of
15 Ethics of Professional Conduct, and the common
16 interest privilege as well, of course the common
17 defense privilege.

18 MR. WARD: To the extent that a
19 client, Mr. Shinn, former client, has objected on the
20 basis of work product, the Missouri Rules of
21 Professional Conduct, and attorney-client privilege,
22 I would make that same objection, and instruct the
23 witness that he should not respond.

24 Q. (By Ms. Nial) Let's move on then to the
25 Communications Committee, Mr. Shinn.

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1 MR. SCARBORO: You're welcome to
2 ask some questions about jurisdiction.

3 MR. MEYER: For the record, I
4 believe that Ms. Nial is asking questions that we
5 believe deals specifically with jurisdiction.

6 MR. SCARBORO: Okay. I want to
7 repeat, it's not obvious to me. I cannot see it, and

8 I genuinely mean that. I'm not here just to make an
9 objection. I'm here to tell you, I don't see the
10 relationship of any of this to jurisdiction. And I
11 think that the person taking the deposition has no
12 interest in jurisdiction either, and is not here for
13 that purpose, as far as I can tell.

14 MR. MEYER: I genuinely have the
15 same feeling, and I am as sincere as you are, that we
16 are making every effort to be within the order of the
17 Court, and to be able to agree to exactly what the
18 Court ordered. You know, in those days that we've
19 made these arguments before the Court, that I'm very
20 realistic of what he in fact ordered, and that we are
21 in fact doing that with everything I can to meet that
22 obligation.

23 Q. (By Ms. Nial) Okay. Mr. Shinn, I wonder
24 if you can tell me, when you were a partner at Shook
25 Hardy & Bacon, did Shook Hardy & Bacon ever represent
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1 any clients who resided in Oklahoma?

2 A. I don't know.

3 Q. I wonder if you could tell me, Mr. Shinn,
4 is Shook Hardy & Bacon considered a national law
5 firm?

6 MR. WARD: Object to the form of
7 the question.

8 Q. Do you know what that term national law
9 firm means, Mr. Shinn?

10 A. I'm not too sure what it means. I
11 really -- I'm not sure.

12 Q. Does Shook Hardy & Bacon represent
13 clients only in Missouri or Kansas?

14 A. No.

15 Q. Does Shook Hardy & Bacon represent
16 clients in any other states?

17 A. Yes.

18 Q. Could you tell me, from your experience
19 as a partner at Shook Hardy & Bacon, what states
20 Shook Hardy represents clients in.

21 A. Okay. Can we put it in the past tense
22 because --

23 Q. Sure. From your experience as a partner
24 at Shook Hardy & Bacon.

25 MR. SUNDERMEYER: Object to the
50
1 form.

2 Q. While you were a partner at Shook Hardy &
3 Bacon, Mr. Shinn, did the law firm represent clients
4 in any other states than Missouri or Kansas?

5 A. Yes.

6 Q. What were those states, Mr. Shinn?

7 A. I doubt that I could tell you all of
8 them, but they would include California, Illinois,
9 Alabama, I think Mississippi. There were a number of
10 states. I don't remember about Oklahoma. I don't
11 recall having any cases there myself, and have no
12 firsthand knowledge with regard to whether the firm
13 represented Oklahoma clients. But if the question is
14 did Shook Hardy represent clients in a number of the
15 United States, yes.

16 Q. While you were a partner at Shook Hardy &
17 Bacon, did they have offices in states other than
18 Missouri or Kansas?

19 A. Yes.
20 Q. What states were those, please,
21 Mr. Shinn?
22 A. I guess, to be more precise, the District
23 of Columbia, for a period of time.
24 Q. And was that law firm called Shook
25 Hardy & Bacon?

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1 A. I believe it was.
2 Q. What was the primary practice of that law
3 firm?
4 MR. SUNDERMEYER: Object to the
5 form.
6 A. You mean of the partners who were --
7 Q. Yes.
8 A. -- or the lawyers who were in
9 Washington.
10 Q. Of that office of Shook Hardy & Bacon
11 that was in Washington, D. C.

12 MR. SUNDERMEYER: Same objection.
13 A. Well, their practice might involve
14 something that the Kansas City office was interested
15 in, just to start with that. In other words, if
16 somebody here had a question about interpretation on
17 a Federal Trade Commission question for a client that
18 wasn't in the -- associated with tobacco in any way,
19 an inquiry would probably be made to the Washington
20 office.

21 I know that the individuals in the
22 Washington office did work with the Congress and
23 with, not on a solid footing, administrative
24 agencies; whereas I think I viewed Shook Hardy, in
25 Kansas City, as heavier on the litigation side, not
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1 without these other areas. Does that answer your
2 question?
3 Q. It's starting to. Did the office of
4 Shook Hardy & Bacon, that was located in Washington,
5 D. C., do lobbying?
6 A. Well, I don't know -- you know, I'm not a
7 Washington lawyer, and I'm not too clear on what
8 lobbying is and is not. But I know that they
9 represented clients who were interested in
10 legislation.

11 Q. When you were a partner at Shook Hardy &
12 Bacon, did they have partners meetings, at which they
13 discussed the work of the firm?

14 A. Did Shook Hardy?

15 Q. Uh-huh.

16 A. Have meetings?

17 Q. Partners meetings where --

18 A. At which they discussed the work of the
19 firm.

20 Q. Work of the firm.

21 A. Yes.

22 Q. And when the office of Shook Hardy &
23 Bacon was opened in Washington, D. C., did they
24 discuss the opening of that law firm at one of those
25 partners's meetings, do you recall?

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1 MR. SUNDERMEYER: Object to the
2 form.

3 A. I'm sure it was discussed at a full

4 partners meeting.
5 Q. Do you recall when that was?
6 A. I don't.
7 Q. Do you recall when the D. C. office was
8 open?
9 A. No.
10 Q. Do you know if that D. C. office is still
11 in existence?
12 A. It is not.
13 Q. Do you recall when it closed?
14 A. I do not.
15 Q. Do you recall why it closed?
16 A. My recollection is, mutual decision, that
17 the lawyers in Washington preferred to be on their
18 own. I think they later consolidated with another
19 firm. And recognition that this was not a joining
20 together that was providing, on our part, a lot of
21 business for the Washington office, or for us. I
22 think we figured it would be a good fit. And, as I
23 recall, there was no rancor. But it turned out not
24 to be one of those mergers that worked.
25 Q. Do you recall when -- do you recall what

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1 the name of the firm was, when it split off from
2 Shook Hardy?
3 A. No, I don't.
4 Q. When you were a partner at the law firm
5 of Shook Hardy & Bacon, do you know whether or not
6 there were lawyers at Shook Hardy who were licensed
7 to practice law in the State of Oklahoma?
8 A. I do not.
9 Q. Who would know that information at Shook
10 Hardy?
11 MR. WARD: Counsel, would you
12 phrase the time period again the question relates to.
13 Q. During the time that you were a partner
14 at Shook Hardy & Bacon, what partner or management
15 employee would know what lawyers or how many lawyers
16 were licensed to practice law in the State of
17 Oklahoma?
18 A. Well, I don't know who would keep that
19 information, but it would -- might be kept on the
20 administrative side.
21 Q. When you were a partner at Shook Hardy &
22 Bacon, did you list the members of the law firm on
23 your letterhead?
24 A. I think that was a practice, at one time.
25 But, as I recall, we stopped, because there were so

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1 many to be listed.
2 Q. And when you listed members of the firm
3 on the letterhead, did you indicate what states they
4 held licenses to practice law in?
5 A. The only instances I remember were with
6 regard to the Kansas office. And I'm not sure how we
7 handled the Washington office.
8 Q. So you wouldn't just have John Smith,
9 paren, Kansas, Missouri, and Oklahoma; or Kansas,
10 Missouri, and South Carolina.
11 A. I don't think so.
12 Q. When you were a partner at Shook Hardy &
13 Bacon, were you aware of a formal department or
14 division that was responsible for tobacco-related

15 issues?
16 A. I'm sorry, could you say that again.
17 Q. When you were a partner at Shook Hardy &
18 Bacon, was there a formal department or division that
19 dealt with tobacco-related issues?
20 A. Yes.
21 Q. And what was that department or division
22 called?
23 A. I think it was called the tobacco
24 section.
25 Q. And was there a partner in charge of the
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1 tobacco section?
2 A. Normally -- yes, there would be, on the
3 table of operations.
4 Q. And who would that partner be, while you
5 were a partner at Shook Hardy?
6 A. If we had it, when Dave was alive, it
7 would have been him. I'm not sure we had
8 sectionalized. At a later time, it would be me, and
9 then others. I think -- well....
10 Q. Under your tobacco division, during the
11 time that you are the head of it, if you will, did
12 that tobacco division also include non-lawyers?
13 A. There were people that worked in the area
14 of tobacco that would be non-lawyers, like legal
15 assistants. I'm trying to recall what the TO looked
16 like, the table of organization. I think that was
17 lawyers, but there were certainly other people that
18 were working in the tobacco area.
19 Q. Did you have a group of scientists
20 working for you in the tobacco division?
21 A. Some of the individuals who were working,
22 had scientific degrees.
23 Q. When you say individuals, do you mean
24 some of the lawyers who worked there had scientific
25 degrees?

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1 A. Good question. I'm not sure about -- I
2 couldn't name you a lawyer. It wouldn't surprise me,
3 but -- yes. Yes. One or more of the lawyers. One
4 had an M.D.
5 Q. So there were lawyers who had scientific
6 degrees, but were there non-lawyers who were also
7 there who had scientific degrees?
8 A. Yes. Yes.
9 Q. Did the persons who were non-lawyers, who
10 were part of the tobacco division, who had scientific
11 degrees, do scientific research for Shook, Hardy &
12 Bacon on tobacco-related matters?
13 A. Well, research is a big word. Can I
14 narrow it down.
15 Q. You define it, and then tell me the
16 answer. That's fine.
17 A. Okay. Like did the individuals who were
18 non-lawyers and who worked in the tobacco section,
19 and who might be of assistance in a particular
20 scientific area, literature review would be the
21 primary function, I would say. I don't know of any
22 other that did individual research or that were
23 involved in a research project, as such.
24 Q. Besides literature review, did they ever
25 design research projects that they thought should be

1 done, and recommend them to you?

2 A. I don't remember anybody ever coming to
3 me with a research project that had been designed. I
4 have no recollection of that term.

5 Q. The non-lawyers who had scientific
6 degrees, who did literature review for Shook Hardy &
7 Bacon, did they also consult with the literature
8 retrieval division of CTR?

9 MR. SCARBORO: I object, at this
10 point, because I do not see how this last series of
11 questions is in any way related to the jurisdiction,
12 and renew the objections that this is beyond the
13 scope of the jurisdictional deposition, at a minimum,
14 and instruct the witness not to answer -- no, I take
15 that back. I'm just going to make the objection at
16 this point.

17 MR. WARD: Would you like the
18 question read back.

19 THE WITNESS: Yes, please.

20 (Whereupon, the requested portion
21 of the record was read by the reporter.)The?

22 A. The reason I'm hesitating is the CTR.
23 There was a literature retrieval division. It was
24 housed, at one point, in New York. The advisors --
25 our advisors would consult, yes. Consult -- they

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1 would probably ask for literature, in other words, it
2 was a source of information.

3 Q. Mr. Shinn, as a partner at Shook Hardy, I
4 wonder if you could tell me whether or not you agree
5 that the business of a law firm is representing
6 clients.

7 A. I would say that's the primary function
8 of a law firm, to represent clients, yes.

9 Q. Would you also agree, Mr. Shinn, that, if
10 the business of a law firm is to represent clients,
11 then the representation of clients, in the State of
12 Oklahoma, would be doing business by Shook Hardy &
13 Bacon?

14 MR. SUNDERMEYER: Objection,
15 instruct the witness not to answer, invades the work
16 product doctrine. And I don't think this witness has
17 any obligation to form present legal opinions for the
18 plaintiff.

19 MR. WARD: I adopt that objection,
20 but also am going to object to the form of the
21 question. The witness is here to respond to
22 questions, when appropriate; and not here to agree
23 with counsel's interrogation. So the form of the
24 objection goes to that.

25 Q. During the time that you were a partner

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1 at Shook Hardy & Bacon, were you aware of any efforts
2 by the law firm to solicit or attract business in
3 Oklahoma?

4 A. I remember nothing of that sort. I'm not
5 saying it didn't happen, I just -- I have no
6 recollection at all.

7 Q. Were you, as a partner of Shook, Hardy &
8 Bacon, ever a member of a management committee or
9 management team that oversaw the management of the
10 firm?

11 A. Yes.
12 Q. How long were you a member of that
13 management team committee?
14 A. I'm trying to remember what we called it,
15 but you're talking about probably something like an
16 executive committee or a planning group.
17 Q. Correct.
18 A. Whatever.
19 Q. A committee that the law firm would set
20 up to manage its business affairs.
21 A. I was probably involved in something like
22 that for 10 years or more.
23 Q. Do you recall the name -- do you recall
24 whether or not Shook Hardy & Bacon used any
25 professional public relations companies during your
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1 time as a partner?
2 A. I know that we talked with organizations
3 that were becoming popular in the 80's, maybe a
4 little before, who held themselves out as being able
5 to assist in the management and organization of law
6 firms. I don't think I viewed them as public
7 relations groups, which is not to say they might not
8 have had a -- had an interest in that. But this
9 was -- we were primarily looking at help for the
10 organization of the firm.

11 Q. How about marketing the firm?

12 A. There was always talk of marketing. That
13 had become a big thing too, in the -- hard for me to
14 put a time on it, but maybe late 70's, the beginning,
15 at least in the Midwest. I mean we were not
16 necessarily ahead of the curve in turning to
17 individuals of that sort.

18 Q. Do you recall, did you have a specific
19 committee, within Shook Hardy & Bacon, that dealt
20 with marketing?

21 A. I don't know. We might have had.

22 Q. Who would be responsible, as the partner
23 responsible at the firm -- let me back up and say.

24 Would there be a partner, at Shook
25 Hardy & Bacon, who was responsible for marketing the
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1 firm's services?

2 A. I don't remember a partner being
3 responsible for that. I remember partners being
4 interested in letting it be known that there were
5 certain kinds of law work that Shook Hardy could do.
6 So it was -- I don't remember a chief who was
7 directing this.

8 Q. Did you have a managing partner during
9 the time that you were a partner at Shook Hardy?

10 A. The managing partner concept came along I
11 think at some point, yes. We did have a managing
12 partner.

13 Q. You don't recall when?

14 A. Well, I'd be guessing, but if -- when we
15 started talking to the advisors, which would probably
16 be in the late 70's, this may have followed fairly
17 soon after that. And I know it sounds vague, but
18 that's because I don't remember when it happened.
19 But the important thing is, did we have a managing
20 partner, yes, we did.

21 Q. Do you recall who that was, or have

22 you -- you've probably gone through a number of them.
23 So would you tell me, from the time period of when it
24 started to -- when the process of having a managing
25 partner started, who those managing partners were.

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1 A. I think Pat McLarney, who is our present
2 managing partner, was also the first managing
3 partner. There could have been somebody else in
4 here. Mr. Gene Voigts served as a managing partner.
5 And I served as a managing partner for a very short
6 period of time. And the -- well, I can't be real
7 good on dates; but if there's somebody else in there,
8 I don't remember.

9 Q. Did you have a marketing plan at Shook
10 Hardy & Bacon, at any time?

11 A. Yeah. I don't know what we called it,
12 but it would be a plan to let people know, consistent
13 with the rules that were evolving, what the firm was
14 capable of doing.

15 Q. And did that marketing plan include
16 advertising?

17 A. There was some advertising.

18 Q. Do you recall whether it was print or
19 broadcast advertising?

20 A. Well, what I remember are some print ads.

21 Q. Do you recall where those print ads were
22 placed?

23 A. Ones I saw were in local publications,
24 which is not to say they might not have been
25 someplace else. But those are the ones that I

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1 recall.

2 Q. Do you recall any print ads that may have
3 been placed in Business Week?

4 A. I don't.

5 Q. Do you recall any being placed in any
6 national publication?

7 A. I don't.

8 Q. Did partners at Shook Hardy ever travel
9 to other states to try to solicit business?

10 A. I don't remember that I ever did.

11 Q. Do you recall if any other partners did?

12 A. Well, I sure couldn't be specific with
13 regard to it.

14 Q. Did you have the concept, if you will, at
15 Shook Hardy, of a rainmaker?

16 A. Well, I think that was one of the buzz
17 words at one time. And so people wanted to be
18 rainmakers, and they wanted to bring law business to
19 the firm. So did we have a concept of rainmaker? I
20 don't think it was our concept, but we knew what it
21 meant.

22 Q. What I was trying to get at is, was there
23 one or two particular partners, at Shook Hardy &
24 Bacon, that brought in most of the clients.

25 A. I would say, at one time, that was David

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1 R. Hardy. After that, it was much more diffused.

2 Q. And what types of clients did Mr. Hardy
3 primarily bring into the firm?

4 A. Well, Dave's interest was in litigation.
5 So the kinds of clients that Dave brought into the
6 firm were individuals, whether plaintiff or

7 defendant, that wanted a good lawyer to represent
8 them.

9 He also represented the Supreme Court
10 Judges of the State of Missouri at one time. There
11 were some other special appointments. He was known
12 as a litigator. This was his area. And I would say
13 that's where the big rainmaking occurred, if you want
14 to use that, is through David R. Hardy.

15 Q. Was it Mr. Hardy who brought the tobacco
16 clients into the firm?

17 A. Yes.

18 Q. Besides Philip Morris, what other tobacco
19 companies did Shook Hardy represent during the time
20 that you were a partner there?

21 A. I can't give you the order, and I am
22 unable -- I mean I'm unable to. When I say can't, I
23 don't mean I'm not going to tell you. I mean I'm
24 unable to tell you the sequence. But Brown &
25 Williamson, Lorillard -- now some of these were not

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1 exclusive representations. Some were occasional.
2 Reynolds, American, maybe one case, which was in
3 Missouri. If there were others -- there may be
4 others, but I can't -- those were the major ones.

5 Q. You said some of these were not
6 exclusive.

7 A. Right.

8 Q. Was there one in this group that was
9 exclusive?

10 A. Well, I prob -- maybe I shouldn't have
11 said that. Occasionally, the lawyer -- the firm --
12 or the company would have a firm that represented it,
13 but they would also want us to represent them too.

14 Q. So would you call it a sort of joint
15 representation arrangement?

16 A. I don't know what you would call it. We
17 just -- we would work together on whatever term it
18 was.

19 Q. Would you be lead litigation counsel in
20 those kinds of arrangements? Not you personally, but
21 Shook Hardy.

22 A. Philip Morris, Lorillard, maybe Brown &
23 Williamson. And if we -- if Dave would have an
24 occasional case for a company, he'd be -- would
25 already be counseled in it, probably. But he might

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1 come in to either try the case or engage in motions,
2 whatever. You know, there wasn't a -- there wasn't
3 an exact pattern on it.

4 Q. When Mr. Hardy left the firm, did he
5 retire or did he die?

6 A. He died.

7 Q. When was that, do you recall?

8 A. I believe it was 1976.

9 Q. And when Mr. Hardy died, is that when you
10 took over as head of the tobacco division?

11 A. Yes.

12 Q. When you were a partner at Shook Hardy &
13 Bacon, did they have a document retention policy?

14 A. Well, there was a document retention
15 policy developed at some point. So, yes, there would
16 have been a document retention policy. I can't tell
17 you when it was, except it was probably some time --

18 well, I don't want to guess. There was a document
19 retention policy in effect at some time, which could
20 be determined.

21 Q. If I wanted to get a copy of that
22 document retention policy, who would I ask at Shook
23 Hardy?

24 A. I don't know who would have that policy
25 at this time. I assume that -- I don't know who

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1 would have the document retention policy. I assume
2 it's in the tobacco section or in the general
3 administrative section.

4 Q. If you recall, sir, when the tobacco
5 retention pol -- not tobacco, document retention
6 policy was inactive, and I understand you don't know
7 exactly when that was, was it distributed among the
8 firm, among the lawyers?

9 A. Well, I don't know for a fact, but I
10 assume that -- if you have a document retention
11 policy, you want the people involved to know what it
12 is. So presumably it was. I did not distribute it
13 myself, or see it distributed.

14 Q. Do you recall who drafted the document
15 retention policy?

16 A. It was one of the lawyers -- I think the
17 tobacco document retention policy was developed by
18 one or more lawyers in the tobacco section.

19 Q. Do you recall how the tobacco document
20 retention policy differed from the general Shook
21 Hardy document retention policy?

22 MR. SUNDERMEYER: Object to the
23 form.

24 A. I don't know if it did differ.

25 Q. But you know there were two?

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1 A. No, I don't even know that.

2 Q. Do you know, Mr. Surridge?

3 A. Yes. Pat Surridge?

4 Q. Yes. Was he a member of the tobacco
5 division?

6 A. Yes.

7 Q. Did he report to you, in a sense, when
8 you were the head of the tobacco division?

9 A. Probably, or to somebody else that I
10 would be working with.

11 Q. How about Mr. Hoel, H-o-e-l, Donald?

12 A. Well, the way it worked was that, as work
13 increased and as people became more specialized,
14 there might be less reporting. So I can't -- all I
15 can say is that I would sometimes hear from Don or
16 hear from Pat about something that was going on.

17 There was a reasonable amount of autonomy
18 in the section.

19 Q. Is that true about Mr. Long, was Mr. Long
20 at Shook Hardy & Bacon in the tobacco division while
21 you were there?

22 A. Well, Gary wasn't in tobacco,
23 exclusively. He was in one of the other sections at
24 one time, I think, and may have been in general
25 litigation at one time.

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1 Q. Do you recall when Mr. Long joined the
2 tobacco division?

3 A. No.
4 Q. How about Mr. Lee Stanford, was he in the
5 tobacco division when you were there?
6 A. Well, he came to the tobacco section
7 while I was there. He had been in another area of
8 the firm. And, of course, this would happen from
9 time to time, people would move from one general
10 specialty, I'm going to call it a general specialty,
11 to another. But, yes, Lee came with the tobacco
12 section.
13 Q. Did any of the members of the tobacco
14 section ever leave Shook Hardy & Bacon to go to work
15 for one of your tobacco company clients?
16 A. Yes.
17 Q. And who was that, sir, do you recall?
18 A. Yeah. That was Charles Wall, W-a-l-l,
19 and Steve -- I'm getting a block on his last name,
20 went to Philip Morris.
21 Q. Steve Parrish?
22 A. Yeah. Sure. He won't like that.
23 Q. No, I don't think he will.
24 Who did Mr. Wall go with?
25 A. And he won't like it that I got a block

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1 on his name. When he first came with the firm, he
2 was occupying a part of my office. So we got to know
3 each other fairly well.
4 Who else? I'm sorry.
5 Q. Who did Mr. Wall go with?
6 A. Chuck went with Philip Morris.
7 Q. Anyone else that you can recall?
8 A. Well, I can't. But if you want to give
9 me a hint, I'll try to remember them. Those are the
10 two that occur to me right now, based on your
11 question of who went from the firm to one of our --
12 Q. Tobacco clients.
13 A. -- clients, yeah.
14 Q. Did any of your lawyers ever leave the
15 firm and go to work for the Tobacco Institute?
16 A. I don't think so. I don't think so.
17 Q. Did any of your members of your firm ever
18 leave the firm and go to work for The Council for
19 Tobacco Research?
20 A. I'm reasonably sure the answer to that
21 one is no.
22 Q. Do any partners -- or during the time
23 when you were a partner at Shook, Hardy & Bacon, did
24 any of the partners sit on any of the boards of
25 directors of any of your tobacco clients?

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1 A. I sure can't remember any.
2 Q. Did any of your partners sit on any --
3 sit on the board of directors of The Council For
4 Tobacco Research?
5 A. I'm virtually certain the answer is no.
6 Q. How about the Tobacco Institute?
7 A. On the board?
8 Q. (Nodded head.)
9 A. No.
10 Q. How about on the board of a company
11 called LSI, Inc.?
12 A. What's LSI, Inc.? Could be, if I'm
13 thinking of the right --

14 Q. LSI Inc. is the successor, if you will,
15 in a general sort of term, to the literature
16 retrieval division.

17 A. May have had a representative on that
18 board.

19 Q. Do you happen to remember who that was?

20 A. I don't remember who it was. If we had
21 one, I don't remember who it was. I think that was
22 one of the retrieval systems that had a board; and I
23 believe that somebody from Shook Hardy was on it.

24 MR. WARD: Counsel, why don't we
25 take another break.

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1 MS. NIAL: Yeah, I was going to ask
2 if you wanted a break.

3 MR. WARD: Great.

4 (Brief recess taken.)

5 Q. (By Ms. Nial) Mr. Shinn, feel a little
6 better now that you got to stand up?

7 A. You bet.

8 Q. We'll try not to make you wait that
9 long --

10 A. Thank you.

11 Q. -- for the next break. I apologize.
12 I wonder if we could talk a little bit
13 about the other law firms that are involved in
14 tobacco litigation. Shook Hardy & Bacon has been
15 involved in tobacco litigation for about how many
16 years, would you estimate?

17 A. Well, if we figure the beginning's around
18 '58, '59, '60, let's say 37 or 8 years.

19 Q. And during most of that time, you were
20 involved -- you were involved in that tobacco
21 litigation as a partner at Shook Hardy; is that
22 correct?

23 A. The case, right around the late part of
24 the 50's or the real early 60's, the case. Then I
25 think I went off and tried railroad cases or

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1 something. But, later, I was back in the net with
2 the -- in the mid-60's. And then, pretty fully
3 involved until, I would say, the early 80 ', late
4 70's, at which time there was a lot of delegation.

5 So -- and toward the end of the 80's,
6 just to kind of put you in the picture here, there
7 was more administrative work. The firm had grown a
8 great deal. And we were trying to figure out how
9 to -- how to deal with that. But that's -- there was
10 a substantial period though, yes.

11 Q. When you say there was more
12 administrative work than the late 80's, do you mean
13 there was more administrative work as a part of your
14 job, if you will, as head of the tobacco division?

15 A. No. I was speaking more of the firm,
16 generally.

17 Q. How did the work of the tobacco division
18 head, as you said you worked for a while, did that
19 change over time, become less litigation-intensive
20 and more management-intensive?

21 A. No. Well, maybe both, in the sense that
22 the number of cases increased drastically in the
23 80's. And my acquaintanceship, with what was going
24 on, lessened, as the expansion took place.

1 the firm, with respect to particular cases; and more
2 need, let's say, for setting the parts of the tobacco
3 section up, in a way that there could be delegation.
4 So that one or two people wouldn't have to know
5 everything that was going on. And I didn't have a --
6 I didn't have a great deal to do with that. I had
7 some.

8 Q. Under your -- I guess if you will, your
9 regime, as the head of the tobacco division, what
10 were these new compartments of specialization, or
11 however you want to term it, these new strips of
12 responsibility?

13 A. Well, technically, I may not have been
14 head of the tobacco section when the -- well, not
15 technically. The asbestos cases came along, and were
16 a different type of case.

17 Q. Those were the asbestos/tobacco cases.

18 A. Yes. The Cippolone case, in New Jersey,
19 was a different kind of case in many regards. So I
20 guess what I'm saying is there would be more need to
21 divide the work up in such a way, that individuals
22 might be working in a more specialized area.

23 Q. Besides specializing in specific kinds of
24 cases, did lawyers within Shook Hardy & Bacon also
25 specialize, for example, on particular issues, like

1 medical issues?

2 A. In addition to -- I'm sorry, what was the
3 first part of the question?

4 Q. Besides separating responsibility in the
5 tobacco division between different kinds of cases,
6 you described the asbestos/tobacco cases and then the
7 Cippolone case, were there also divisions within that
8 group as to special issues, for example medical
9 issues?

10 A. I don't know if separation is the right
11 word. Particular individuals might become more
12 versed --

13 Q. Specialized.

14 A. -- in asbestos, someone else might
15 become more versed in cross-examination of a
16 pathologist. I mean this sort of thing happened. I
17 don't think it happened by any grand design. That's
18 just the way it worked out.

19 Q. Did you have any particular lawyer or
20 partner, within the tobacco group, that was
21 responsible for liaising, if you will, with other
22 national counsel who represented tobacco companies?

23 A. Well, in a simpler day, there would be
24 meetings of counsel from the different companies,
25 which were sued in tobacco cases, to discuss the

1 stage in which particular litigation might be.

2 For example, Dave might meet with a
3 lawyer for Reynolds, lawyer for American, whatever,
4 to discuss witnesses available, what's going on. So
5 there was quite a bit of exchange of information.
6 And this was a common defense situation, so
7 information was exchanged.

8 Q. Do you recall whether or not this common
9 defense situation, as you've termed it was ever

10 memorialized in a joint defense agreement?
11 A. I've never seen one.
12 See, this started -- this would have
13 started in '54, if we number -- if we start the
14 number from the first lawsuits actually filed, I
15 think Melvin Beli and some others filed lawsuits
16 during 1954. And from that date forward, there were
17 all these lawsuits. I think that governed some of
18 these exchanges.
19 Now, I've missed your question, and it's
20 not specific enough.
21 Q. I just asked if there was ever a
22 memorialization of this common defense --
23 A. If there was, it would have been
24 considerable before I became involved; or Dave,
25 probably.

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1 Q. You said that these kinds of meetings
2 started in '54 and continued throughout. Do you
3 remember whether or not they ever became formalized
4 in any way? Did they have a name?
5 A. I've assumed that the company sued had
6 lawyers get together and coordinate. I mean nobody
7 ever came to me and said in 1954 we did this, that,
8 and the other. But I've assumed it's because, at
9 some point, Dave and/or -- probably Dave, would meet
10 with principal lawyers from other companies who were
11 sued.
12 Q. Do you know whether or not, as part of
13 their discussions, they discussed public relations
14 for the tobacco companies?
15 MR. SCARBORO: I object, and just
16 counsel the witness that anything that implicates the
17 attorney-client privilege, we wish to preserve the
18 privilege and instruct the witness not to answer.
19 Q. Do you know whether the CTR grew out of
20 these meetings of counsel --
21 MR. SCARBORO: Same objection.
22 Q. -- that started in '54?
23 MR. FALKENSTEIN: Would you repeat
24 the question please.
25 MS. NIAL: I said, do you know

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1 whether the CTR grew out of these meetings of counsel
2 that started in 1954.
3 MR. SCARBORO: Same objection, same
4 instruction. In addition, I would object that the
5 questions are now exceeding the scope of a
6 jurisdictional deposition.
7 Q. While you were working with the tobacco
8 division at Shook Hardy & Bacon, do you recall
9 meeting with any members of the Jacob Medinger &
10 Finnegan firm?
11 MR. WARD: Is that a law firm?
12 MR. SCARBORO: I apologize. I
13 missed the question. Could you repeat it.
14 MS. NIAL: I asked, while he was a
15 member of the tobacco division, if he recalls meeting
16 with any members of the Jacob Medinger & Finnegan law
17 firm.
18 A. Yes.
19 Q. Do you recall which representatives of
20 that law firm you met with?

21 A. At one time or another, I would have met
22 with certainly Ed Jacob and Tim Finnegan.
23 Q. Do you recall whether or not those
24 meetings had to do with specific cases?
25 MR. SCARBORO: I would just caution

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1 the witness that we may be getting close to an issue
2 of work product and attorney-client privilege. I
3 would say to the witness that you could answer yes or
4 no, but please don't do anything further than that.

5 THE WITNESS: I'm sorry, could you
6 read it back.

7 (Whereupon, the requested portion
8 of the record was read by the reporter.)

9 A. Yes.

10 Q. Do you know which cases those were?

11 MR. FALKENSTEIN: I object for the
12 reasons stated a moment ago by counsel.

13 Q. Do you recall whether or not those
14 meetings had to do with The Council For Tobacco
15 Research?

16 A. You mean ever?

17 Q. Do you ever remember discussing --

18 A. Globally.

19 Q. -- the Council For Tobacco Research with
20 any representative of the Jacob Medinger & Finnegan
21 firm?

22 MR. SCARBORO: Again, I would just
23 caution the witness that if, in order to answer that
24 question, you have to divulge information that would
25 be protected by the attorney-client privilege, we

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1 instruct you not to answer the question.

2 MR. WARD: Same instruction.

3 Mr. Shinn, I assume that you would be the
4 person who could best tell whether or not that
5 implicates a privilege. If it does, attorney-client
6 or work product, then, on the basis of the objection
7 of a former client, we would adhere to that request
8 not to answer the question.

9 THE WITNESS: Very well.

10 Q. I presume you're not going to answer the
11 question.

12 A. Right.

13 Q. With the law firm of Covington & Burling,
14 did you ever meet with any representatives of the law
15 firm of Covington & Burling?

16 A. Yes.

17 Q. Do you recall who those representatives
18 were?

19 A. Tommy Austern, Stan Temko, and whoever
20 might be there for them from the firm.

21 Q. The law firm of Chadbourne & Parke, is
22 that a law firm that is familiar to you from tobacco
23 litigation?

24 A. Yes.

25 Q. Do you know Janet Brown?

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1 A. Yes.

2 Q. Do you know that Janet Brown was a member
3 of the board of directors of The Council For Tobacco
4 Research?

5 MR. SCARBORO: I'm just going to

6 object to the question on the ground that it exceeds
7 the scope of a jurisdictional deposition, and may or
8 may not implicate the attorney-client privilege.
9 But, if it does, we would request that the witness
10 not answer the question.

11 MR. WARD: Same instruction.

12 MR. SCARBORO: And if the examiner
13 can explain to me how this relates to jurisdiction,
14 certainly we are open to reconsider the objections to
15 this line of questioning. But we were talking about
16 Shook Hardy & Bacon about 10 minutes ago, and now we
17 seem to have moved on to another subject, that I fail
18 to see the relationship to a jurisdictional
19 deposition.

20 Q. (By Ms. Nial) Do you know Mr. Whiteside
21 of Chadbourne Parke?

22 A. I don't believe I ever met Mr. Whiteside.

23 Q. Could you describe, for me, the
24 relationship between Shook Hardy & Bacon, and The
25 Council For Tobacco Research.

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1 MR. SCARBORO: Same objection.

2 MR. FALKENSTEIN: And as to form.

3 MR. SCARBORO: Let me just make
4 clear what my objection is. My objection is that we
5 are exceeding the scope substantially, dramatically,
6 in my view, of a jurisdictional deposition; and we
7 instruct the witness not to answer.

8 MS. NIAL: And you're instructing
9 the witness not to answer, in part, on the basis of a
10 relevancy and scope objection; is that correct?

11 MR. SCARBORO: That's correct.

12 MR. WARD: I want to object on the
13 basis that it seems, to me, to implicate -- if the
14 answer is affirmative that there was an
15 attorney-client relationship, it would be asking of a
16 description of the relationship that, going beyond
17 that is attorney-client privilege; and therefore I'd
18 object to it on that basis.

19 MR. SCARBORO: Well, we join in
20 that objection then, and the work product objection
21 as well.

22 Q. (By Ms. Nial) Mr. Shinn, did Shook
23 Hardy & Bacon --

24 MR. MEYER: Let me interrupt a
25 second. The objection that was an instruction not to

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1 answer, as to the relevancy, and that that was
2 lodged. And then there was a second one, wasn't
3 there, Mr. Scarboro?

4 MR. SCARBORO: Yes. I joined in
5 the attorney-client and work product objections.

6 MR. MEYER: Attorney-client as
7 well.

8 Q. (By Ms. Nial) Mr. Shinn, do you recall
9 whether or not Shook Hardy & Bacon ever represented
10 CTR?

11 A. I don't believe we did, as far as direct
12 representation. CTR was a defendant in certain
13 lawsuits, and they would have counsel. And there was
14 the common defense assertion, as you've mentioned.

15 But as far as our representing The
16 Council For Tobacco Research, I don't believe so.

17 Q. When you were at Shook Hardy & Bacon, did
18 you, or any member of Shook Hardy & Bacon, ever draft
19 materials for publication in the national media on
20 the issue of tobacco and health?

21 A. I don't think I would say -- I think our
22 function, in this regard, would usually be as a
23 result of representation of the Tobacco Institute, in
24 reviewing materials that might be published by them.
25 So when you ask did we -- I think you asked if we did

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1 it?

2 Q. Drafted.

3 A. I would be hesitant to use the term
4 draft.

5 Q. Would it be more fair to say, then, you
6 reviewed the materials and edited them, if you
7 thought it was necessary?

8 MR. SCARBORO: I'm just going to
9 object, and instruct the witness not to answer, to
10 the extent that this may implicate attorney-client
11 privilege issues. I can't tell, precisely, from the
12 question whether it does. And I have to leave to the
13 witness's judgment whether or not that is so. But if
14 it is, the companies wish to preserve that privilege
15 and instruct you not to answer.

16 MR. WARD: Same objection, same
17 instruction.

18 A. Without lawyering the issue, it sounds as
19 if you're asking me what advice we would give, which
20 would be, to a substantial extent, legal.

21 Q. No. I think you misunderstood my
22 question.

23 I was asking you, purely, what mechanical
24 activities you engaged in when you got a piece of
25 written material from the Tobacco Institute. Did you

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1 A, review it; and did you, B, edit it if necessary.

2 MR. SCARBORO: Same objection, same
3 instruction.

4 MR. WARD: Same objection, same
5 instruction.

6 MR. SCARBORO: Let me add, by the
7 way, and I just -- I hate to repeat this every time,
8 but we also object that the question is beyond the
9 scope of the jurisdictional deposition; and we also
10 assert that having the witness testify about this
11 would violate Rule 1.6 of the Missouri rules of
12 Professional Conduct, as well as the joint defense
13 privilege.

14 MR. WARD: Mr. Shinn, based on your
15 former client's objection, as stated in the record,
16 and instruction, I would instruct you, you need not
17 answer that question.

18 Q. Mr. Shinn, I wonder if you could tell me
19 what the purpose of the Tobacco Institute was.

20 MR. SCARBORO: Same series of
21 objections and instruction.

22 Q. Mr. Shinn, are you aware that the Tobacco
23 Institute performed lobbying services for the tobacco
24 industry?

25 MR. SCARBORO: Same objections and

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1 same instruction.

2 Q. Are you aware that the Tobacco Institute
3 developed public relations materials to be published
4 in national media?

5 MR. SCARBORO: Same objections and
6 same instructions. Let me just add one note to the
7 objections that -- an explanatory note to the
8 objections I've made. The Plaintiff in this case has
9 chosen to ask a lawyer -- to subpoena a lawyer for
10 the purpose of testifying. And I assume the
11 attorneys for the Plaintiff are aware that there is
12 an ethical obligation, on the part of a lawyer, not
13 to reveal information relating to the representation
14 of a client, unless the client consents, with certain
15 exceptions.

16 We are invoking that ethical obligation
17 in this case, and we are not consenting to have
18 Mr. Shinn testify generally. Lawyers are and ought
19 to be the witnesses of last resort in a case, not the
20 witnesses of first resort.

21 We understand that the Court has issued
22 an order regarding jurisdiction -- a deposition
23 regarding jurisdiction. And to the extent that that
24 order has been issued, we believe we have an
25 obligation to permit the witness to testify.

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1 But beyond matters clearly related to
2 jurisdiction, we believe we not only have the right,
3 under the Court's order, not to have the witness
4 testify, but that we have a right, under the Missouri
5 ethical rules, not to have the witness testify.

6 MS. NIAL: You do understand,
7 Mr. Scarboro, that Shook Hardy & Bacon is a defendant
8 in this lawsuit; and that Mr. Shinn, in large part,
9 is here as a fact witness on jurisdiction and,
10 subsequent to this, will probably be called as a fact
11 witness on merit.

12 MR. SCARBORO: To the extent that
13 he is a fact witness on jurisdiction, we agree. He's
14 here to answer questions about jurisdiction. You
15 have asked some, but not very many. That's my
16 judgment.

17 MS. NIAL: And you understand that
18 there are -- real and true facts are not subject to
19 the attorney-client privilege --

20 MR. SCARBORO: That what?

21 MS. NIAL: -- if he is a fact
22 witness -- if he is a fact witness and he knows facts
23 that don't involve communication between he and his
24 client, that is not covered by attorney-client
25 privilege.

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1 MR. SCARBORO: Well, I'm not going
2 to debate the scope of the attorney-client privilege.
3 But there are other constraints upon his ability to
4 testify, and rights that are possessed by his former
5 clients not to have him testify, including an ethics
6 rule of the Missouri Supreme Court, and as well as
7 the attorney-client privilege, the work product
8 doctrine, and the joint defense privilege.

9 MR. WARD: Mr. Shinn, you've heard
10 the comments of counsel for both Plaintiff and
11 several of the Defendants. To the extent that a
12 former client of yours, and either a former or

13 current client of Shook Hardy & Bacon, has instructed
14 that they do not want issues and statements of
15 representation testified to by you, as their former
16 counsel, you need to adhere to that instruction.

17 THE WITNESS: Thank you.

18 Q. (By Ms. Nial) Okay, Mr. Shinn. Let's
19 see if we can ask you a question that isn't
20 privilege. Maybe I'll ask you what your lunch is
21 going to be.

22 Okay. Back to the Tobacco Institute.
23 Have you read any published public materials
24 regarding the Tobacco Institute?

25 MR. SCARBORO: The question is has
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1 he read any --

2 MS. NIAL: Any public published
3 materials about the tobacco industry.

4 MR. SCARBORO: Could you explain to
5 me, counsel, what this has to do with the deposition
6 on jurisdiction.

7 MS. NIAL: I don't think that I am
8 required to do that. And I think you have made your
9 objections so obvious, clear, and verbosely, that
10 there's no need for us to go into this issue again.
11 We'll probably have to argue it before the Judge.

12 You've made some rather unbelievable
13 objections to my questions, in reference to the
14 Tobacco Institute and other things, that, if I could
15 just move on and then you can make your record.
16 You've already made your record and eaten up a lot of
17 the deposition. If I could just ask a few questions,
18 we can get finished.

19 MR. SCARBORO: I appreciate the
20 compliment. And I instruct the witness not to answer
21 on the grounds that it exceeds the scope of the
22 deposition, also a deposition on jurisdiction, and as
23 well as the ethical rule that has previously been
24 cited.

25 MR. SUNDERMEYER: Also object as to
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1 form.

2 Q. (By Ms. Nial) Mr. Shinn, would it be
3 your position, based on the ethical rules cited by
4 counsel here, that you cannot answer any questions
5 regarding the Tobacco Institute?

6 MR. SUNDERMEYER: Objection. To
7 the extent that's addressed to him as a former
8 partner of Shook Hardy, I advise him that he need not
9 form any present opinions. It's not in his position
10 here to engage in a legal discussion with counsel for
11 the Plaintiff. Instruction not to answer the
12 question.

13 MR. WARD: Same instruction.

14 Q. (By Ms. Nial) Was the Tobacco Institute
15 founded to influence the public perceptions relating
16 to the tobacco industry?

17 MR. SCARBORO: Same objections,
18 same instruction.

19 Q. Was it founded to --

20 MR. MEYER: Just -- this is Hank
21 Meyer.

22 Just so I note for the record, I know
23 that you all are giving him instructions.

24 And when you don't answer, Mr. Shinn,
25 you're abiding --

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1 Or maybe you could ask, he's abiding by
2 the instruction of counsel.

3 MR. WARD: Yes, that's correct.

4 MR. SUNDERMEYER: Why don't we just
5 have the understanding, whenever he doesn't answer
6 after an instruction, that means he's following that
7 instruction.

8 MS. NIAL: I had that
9 understanding.

10 THE WITNESS: We understand, right?

11 MS. NIAL: We understand. I
12 understand.

13 THE WITNESS: Thank you.

14 MS. NIAL: Why don't we take a
15 break for a minute.

16 (Brief recess taken.)

17 Q. (By Ms. Nial) Mr. Shinn, I'm on a
18 downhill slide at the moment, at least for today.

19 Understanding that counsel's advised you,
20 several times, not to answer questions regarding the
21 Tobacco Institute and CTR, I still need to get that
22 information. So I still have to ask you those
23 questions. It's not to harass you, just to try to
24 get some information.

25 Now, we talked a little bit about the

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1 Committee of Counsel, which was a part of the Tobacco
2 Institute. I wonder if -- I'm going to run through a
3 couple of other committees, and maybe you can
4 identify them for me.

5 Are you familiar with a committee called
6 the Ad Hoc Committee?

7 MR. SCARBORO: Same objections,
8 same instructions.

9 Let me just enumerate, because we've had
10 a break. I'll just list the objections, I won't
11 argue them. Exceeds the scope of the deposition,
12 violates the ethics rule, implicates the common
13 interest defense privilege, the attorney-client
14 privilege, work product.

15 MS. NIAL: Just to clarify, you
16 don't mean that my question violates the ethics rule.
17 You just meant that the answer might violate the
18 ethics rule.

19 MR. SCARBORO: If I said that, I
20 did not mean to say it. And, you're right, your
21 question does not.

22 MR. WARD: Mr. Shinn, Mr. Scarboro
23 is objecting, I believe, on behalf of a number of the
24 Defendants, who were clients of yours during your
25 active practice, and are clients of the firm

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1 currently and past. To the extent that that
2 objection relates to a belief on their part and an
3 objection that your answer would violate the
4 attorney-client privilege, I would instruct you that
5 it would be inappropriate for you to answer that
6 question, based on their objection and their request
7 and their instruction.

8 THE WITNESS: Thank you.

9 Q. (By Ms. Nial) And I assume that you're
10 not going to answer on advice of counsel, right?

11 A. Yes. We can probably have that
12 assumption, if that's okay with you.

13 Q. You have a standing assumption.
14 Are you familiar with the committee
15 called the Research Liaison Committee?

16 MR. SCARBORO: Same objections,
17 same instruction.

18 Q. How about the Committee of Six?

19 MR. SCARBORO: Same objections,
20 same instruction.

21 Q. How about the Council of Counsel?

22 MR. SCARBORO: Same objections,
23 same instruction.

24 Q. Are you familiar with the --

25 MR. MEYER: Let me break it down

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1 just so -- I know that we've taken a break and, to
2 clarify, Mr. Shinn -- this is Hank Meyer. Mr. Shinn,
3 by not answering, by not making any response while
4 following the instruction of counsel; is that
5 correct?

6 THE WITNESS: Yes.

7 Q. (By Ms. Nial) Are you familiar with the
8 Lawyer Policy Committee?

9 MR. SCARBORO: Same objections,
10 same instruction, unless you can connect this somehow
11 with jurisdiction discovery, and then we would permit
12 it.

13 Q. Are you familiar with the Industry
14 Technical Committee?

15 MR. SCARBORO: Same objections,
16 same instruction.

17 Q. Do you know Mr. Henry Ramm?

18 A. I did know him. I think Henry's dead.

19 Q. When you knew Mr. Ramm, was he a lawyer
20 for one of the tobacco companies?

21 A. Yes.

22 Q. Do you recall which tobacco company?

23 A. R. J. Reynolds.

24 Q. Did Mr. Ramm become the chairman and
25 president of The Council For Tobacco Research?

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1 MR. SCARBORO: Same objections,
2 same instruction.

3 Q. I assume that you're answering on the
4 advice of counsel?

5 A. (Nodded head.)

6 Q. Are you familiar with the work of the
7 University of Kentucky in reference to tobacco and
8 health?

9 MR. SCARBORO: I'm sorry. Would
10 you repeat that. I didn't hear it.

11 MS. NIAL: I asked Mr. Shinn if he
12 was familiar with the work of the University of
13 Kentucky with regard to tobacco and health.

14 MR. SCARBORO: Same objections,
15 same instruction.

16 Q. Mr. Shinn, are you familiar with the term
17 special project?

18 MR. SCARBORO: Same objection, same
19 instructions.

20 Q. Same response.
21 A. (Nodded head.)
22 Q. Are you familiar with special account?
23 MR. SCARBORO: Same objections,
24 same instruction. Again, with the caveat that if you
25 can link this to something having to do with

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1 jurisdiction, we will permit it.

2 Q. Mr. Shinn, do you know what a conspiracy
3 is?

4 MR. SUNDERMEYER: Object to the
5 form. Again, that calls for the witness to address
6 himself to a present legal conclusion, which I think
7 he has no obligation to do, for the Plaintiff. And I
8 would instruct him not to answer.

9 Q. Mr. Shinn --

10 MR. SUNDERMEYER: At least to the
11 extent that he would have acquired that legal
12 understanding, whatever it is, while he was a partner
13 at Shook Hardy.

14 Q. Mr. Shinn, do you have any understanding
15 of what a conspiracy is, based on your law school
16 training?

17 MR. SUNDERMEYER: I'll let him
18 answer that, to the extent that he can give you an
19 answer that has nothing to do with his work as a
20 lawyer in the firm. I don't think he has any
21 obligation, in this deposition, to be giving you
22 legal opinions. It's also beyond the -- it's utterly
23 beyond the scope.

24 So I think I won't let him answer. It's
25 so far beyond the scope.

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1 MS. NIAL: Okay. So that's an
2 instruction not to answer based on scope.

3 MR. SUNDERMEYER: It's based on
4 beyond the scope, it's totally beyond the scope, and
5 it calls for a present opinion. I don't think that
6 this lawyer is required, in a jurisdictional
7 deposition, to provide the -- basically to give the
8 Plaintiffs expert opinions. That's what you're
9 asking it for. I don't think that's appropriate.

10 Q. Mr. Shinn, is it possible for a lawyer to
11 become so involved in the wrongdoing of a client that
12 he becomes an accomplice?

13 MR. SUNDERMEYER: Object to the
14 form, and the same objection --

15 MR. SCARBORO: Join in the
16 objection.

17 MR. SUNDERMEYER: -- that I made a
18 moment ago.

19 MR. SCARBORO: Join in the
20 objections on all the bases that have previously been
21 set forth.

22 MR. WARD: We'd adopt those
23 objections and instruct you not to answer that
24 question.

25 Q. Do you have a lay opinion of what the

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1 word conspiracy means?

2 MR. SCARBORO: Same objection, same
3 instruction.

4 MR. WARD: I want to add to the

5 objection that, additionally, it's argumentative.
6 MR. SUNDERMEYER: Same objections.
7 MS. NIAL: Didn't mean to argue. I
8 was just trying to figure out if the witness had an
9 understanding of what conspiracy means.
10 MR. SCARBORO: Well, as long as
11 we're making speeches, I don't think that's what
12 you're doing at all.
13 Q. (By Ms. Nial) Let's talk about some more
14 of these committees. Are you familiar with a
15 committee for dealing with the Federal Trade
16 Commission?
17 MR. SCARBORO: Same objections,
18 same instruction.
19 Q. Same response.
20 A. (Nodded head.)
21 Q. Mr. Shinn, is the writing of scientific
22 materials the work of a lawyer?
23 MR. SUNDERMEYER: Same objections
24 that I made a moment ago. It calls, again, for
25 present opinion.

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1 MR. SCARBORO: And we make the same
2 objections that we've made to previous questions.
3 Q. Mr. Shinn, is it appropriate for a lawyer
4 to tell a client to destroy documents that might be
5 damaging in litigation?
6 MR. SUNDERMEYER: Same objection.
7 MR. SCARBORO: Join.
8 Q. (By Ms. Nial) And same response?
9 A. (Nodded head.)
10 MR. SCARBORO: This is a deposition
11 about jurisdiction, not about rhetoric.
12 MS. NIAL: This is a deposition
13 about conspiracy-based jurisdiction that is not
14 prescribed by Oklahoma law, according to Judge Lucas.
15 And Judge Lucas's order regarding the scope of
16 conspiracy-based jurisdiction has been upheld by the
17 Oklahoma Supreme Court.
18 So this deposition is most assuredly
19 about conspiracy, and Shook Hardy & Bacon's
20 participation therein. Whether it participated with
21 its clients or with its clients's co-counsel or
22 whatever, it still can be a basis of jurisdiction in
23 Oklahoma.
24 So, again, I think we're totally within
25 the scope. We're attempting to get information out

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1 of Mr. Shinn. And it's clear that the tobacco
2 lawyers don't want us to get that information.
3 MR. SCARBORO: What is clear is
4 that you are not asking questions which are addressed
5 to jurisdictional issues. If you were to ask such
6 questions, we would be pleased to have the witness
7 answer them.
8 This is not a merits deposition about
9 your claim of conspiracy. This is a deposition about
10 Shook Hardy's contacts with the State of Oklahoma,
11 whether those contacts exist independently of the
12 firm's representation of the tobacco companies or on
13 whatever other theory you have, including a
14 conspiracy theory.
15 But the questions, in order to be proper

16 under the Court's order, as we understand it, have to
17 be -- have an Oklahoma component to them. They have
18 to have something to do with being directed to the
19 citizens of Oklahoma in some fashion.

20 I fail to understand -- most of the
21 questions you've asked seem, to me, not addressed to
22 that topic and therefore we object to them.

23 Q. (By Ms. Nial) Mr. Shinn, do the tobacco
24 companies sell cigarettes in Oklahoma? Do the
25 tobacco companies sell cigarettes in Oklahoma?

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1 A. Well, the tobacco companies, as I
2 understand it, sell to wholesalers, who sell to
3 retailers.

4 Now, are they selling directly in
5 Oklahoma? I don't know. I mean this is a -- you
6 know, it may be a legal conclusion. It would appear
7 that the principal brands are on sale in Oklahoma.

8 Q. So you would agree with me that the
9 Philip Morris brands of cigarettes are sold in
10 Oklahoma.

11 MR. WARD: Well, I want to object
12 to the form of the question. Mr. Shinn is trying to
13 answer questions. It shouldn't be premised on
14 whether he agrees with you or not. Just ask your
15 question and he'll try and answer it.

16 Q. To your knowledge, are Philip Morris
17 cigarette brands sold in Oklahoma?

18 A. When you say to my knowledge, have I been
19 in Oklahoma and seen them sold? No. Would I assume
20 that they are? Yes.

21 Q. Did any member of the Shook Hardy & Bacon
22 law firm, while you were head of the tobacco
23 division, advise any of your tobacco clients that
24 they should close down research facilities?

25 MR. SCARBORO: Object, same

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1 instructions, same objections.

2 Q. And are you not going to answer?

3 A. On advice.

4 Q. I asked you a question about the Research
5 Liaison Committee before, and you didn't answer the
6 question based on advice of counsel. But didn't you
7 have some relationship with that Research Liaison
8 Committee? Didn't you start it up again after it had
9 fallen into disuse?

10 MR. SCARBORO: Same objections,
11 same instruction.

12 A. On advice.

13 Q. Do you know who Leonard Zahn is?

14 A. Yes.

15 Q. Who was Leonard Zahn or who is -- who was
16 Leonard Zahn, when you knew him?

17 A. Again, I don't know whether it was or is,
18 'cause I haven't seen him for a long time. Leonard
19 Zahn was a public relations -- maybe freelancer, when
20 I knew him or as I remember him; and would
21 occasionally do some work for The Council For Tobacco
22 Research.

23 Q. Do you recall whether or not Mr. Leonard
24 Zahn was a member of the Research Liaison Committee?

25 MR. SCARBORO: Same objections,

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1 same instructions.
2 Q. And same response.
3 A. Same response.
4 Q. Have you ever heard of something called
5 the College of Tobacco Knowledge?
6 MR. SCARBORO: Same objections,
7 same instruction.
8 Q. We talked a little bit about the
9 literature retrieval division. Do you know when that
10 literature retrieval division within the CTR was
11 established?
12 MR. SCARBORO: Same objections,
13 same instruction.
14 Q. Do you know what the purpose of the
15 literature retrieval division was within CTR?
16 MR. SCARBORO: Same objection, same
17 instruction, unless of course you can link it to
18 jurisdiction.
19 Q. Are you familiar with the Tiderock
20 Corporation?
21 A. Well, familiar would go too far. The
22 word --
23 Q. Do you know --
24 A. -- Tidewater?
25 Q. No. Tiderock --

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1 A. Tiderock --
2 Q. -- Corporation.
3 A. -- Corporation, rings a bell, way back.
4 Q. Does it ring a bell in connection with
5 the Tobacco Institute?
6 A. I'm trying to remember if there was a
7 particular person operating as Tiderock.
8 Well, if it's the company I'm thinking
9 about, they may have had a relationship with the
10 Tobacco Institute at one time.
11 Q. How about the Ted Bates Company or
12 Corporation?
13 A. Don't know.
14 Q. Does Shook, Hardy & Bacon advise the
15 National Smokers Alliance?
16 A. I don't even think I know what it is. So
17 I guess my answer is I don't know.
18 Q. How about Healthy Buildings
19 International?
20 MR. SCARBORO: How about it? Is
21 that a question?
22 MS. NIAL: I'm sorry. I was being
23 too conversational, and I apologize.
24 MR. SCARBORO: That's all right. I
25 just didn't....

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1 Q. Does Shook Hardy & Bacon advise Healthy
2 Buildings International?
3 A. I don't have any idea.
4 Q. Do you know whether or not Shook Hardy &
5 Bacon advises the Center For Indoor Air Research?
6 A. Center For Indoor Air Research, would be
7 environmental smoke, I guess.
8 Q. That's correct.
9 A. Don't know.
10 Q. Are you familiar with two cases, one
11 called the Pontiac Stadium case in Michigan, and one

12 called the Superdome case in Louisiana?
13 A. Yes.
14 Q. Did Shook Hardy & Bacon represent any of
15 the parties in either of those cases?
16 A. I don't even remember who the parties
17 were, but I remember we were in the cases somehow. I
18 can't give you -- I don't remember, you know, who
19 brought suit, whether there were suits brought. But
20 there -- I remember those two stadiums.
21 Q. You don't remember --
22 A. Pontiac and New Orleans?
23 Q. The Superdome.
24 A. Yeah, is that the New Orleans?
25 Q. Correct. Uh-huh.

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1 A. Yeah.
2 Q. You don't remember whether or not you
3 were counsel of record in those cases?
4 A. Well, I don't, but that doesn't mean a
5 thing, I mean that I -- I can't remember.
6 Q. Do you recall whether or not the Tobacco
7 Institute was a party in either of those cases?
8 A. Well, I don't recall, specifically, the
9 makeup of the lawsuits. I mean except what you say,
10 that they were lawsuits.
11 Q. Uh-huh.
12 A. I don't know. TI -- I don't know, but TI
13 may have been involved in the Superdome case. The
14 other one, I have no recollection. And it's pretty
15 vague on that one.
16 Q. Do you recall whether there were other
17 cases of that kind? And it's my -- let me back up
18 and say, it is my understanding that those cases had
19 to do with smoking regulations within those
20 facilities, in the Superdome and in the stadium.
21 A. Okay. Is that the question?
22 Q. No. I'm giving you a background to the
23 question. I'm just telling you what my understanding
24 is. And I'm asking you whether or not -- the
25 question is whether or not you are aware of any cases

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1 in which Shook Hardy represented the Tobacco
2 Institute, where smoking regulations in public places
3 were an issue.
4 A. I'm not sure who we represented. Could
5 have been The Institute. Those are the only two
6 stadium cases I remember. I think there's a state
7 regulation case, maybe New Jersey, long time ago.
8 Q. Do you recall any public hearings or
9 other meetings of regulatory bodies, where smoking
10 regulations were being discussed, at which a Shook
11 Hardy & Bacon representative appeared?
12 A. I'm trying to remember if the Congress
13 had any hearings on these. And I indicated before, I
14 didn't think anyone from Shook Hardy appeared. I
15 mean that's just my recollection now. I think there
16 were some hearings. I think they were some time in
17 the 70's, the ones I remember, and there may have
18 been hearings later but....
19 Q. But as you sit here now, you can't
20 remember if any Shook Hardy & Bacon representative
21 ever made a representation at those hearings.
22 A. The -- I think the -- either Senate or

23 House hearings would be either TI experts, maybe
24 company. I don't remember appearing at any of those.
25 Q. Do you recall whether or not Shook

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1 Hardy & Bacon lawyers ever helped prepare witnesses
2 to go to, for example, Congressional hearings?

3 A. Yes.

4 Q. Do you recall who those witnesses might
5 be?

6 MR. SCARBORO: I'm going to object
7 and instruct the witness not to answer on the basis
8 of the objections that have previously been lodged.

9 Q. And I assume you're not going to answer,
10 based on advice of counsel.

11 A. Correct.

12 Q. Mr. Shinn, are you familiar with the
13 Journal of the American Medical Association,
14 otherwise known as JAMA?

15 A. Yes.

16 Q. Are you aware that there was a rather
17 extensive edition of the JAMA that dealt with the
18 tobacco and health-related issues, about two years
19 ago?

20 A. Yes.

21 Q. Are you familiar with some of the
22 statements made in those articles relating to Shook
23 Hardy & Bacon lawyers?

24 A. Vaguely.

25 Q. Vaguely. What was your --

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1 A. Not all, probably.

2 Q. What was your reaction to those articles?

3 MR. SUNDERMEYER: Objection.

4 MR. SCARBORO: Same objections,
5 same instruction.

6 MR. SUNDERMEYER: I reiterate my
7 objections as well.

8 Q. As a former partner at Shook Hardy &
9 Bacon, did you take any action to encourage your law
10 firm to sue JAMA?

11 MR. SCARBORO: Same objections,
12 same instruction.

13 MR. SUNDERMEYER: Same objections.
14 And, on its face, calls for work product; common
15 interest too, I think.

16 Q. (By Ms. Nial) I assume you're not going
17 to answer based on advice of counsel.

18 A. That's correct.

19 Q. Were you at all concerned that some
20 persons reviewing documents relating to Shook Hardy &
21 Bacon might come to the conclusion that your law firm
22 was participating in a conspiracy with its client?

23 MR. SCARBORO: Same objection, same
24 instruction. In addition, argumentative, as other
25 questions have been, and goes to the merits of the

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1 case rather than jurisdiction.

2 MS. NIAL: Not wanting to be
3 repetitive, but I think paragraph 3 deals with that
4 issue, of the Judge's March 5th order.

5 MR. SCARBORO: I agree with that.
6 It certainly does, particularly as elaborated by the
7 proposal that was made by the Plaintiff, and which

8 the Court adopted, and which proposal does indeed
9 contain requests for admission and production of
10 documents that are closely tied to Oklahoma, which
11 your questions are not.

12 MR. WARD: Mr. Shinn, all of these
13 objections being made, I don't need to repeat. I'm
14 entitled, by agreement of all counsel, that they are
15 restated on your behalf, personally. You understand
16 that, I assume.

17 THE WITNESS: Yes. And I'm
18 accepting the advice.

19 Q. Mr. Shinn, is the Shook Hardy & Bacon law
20 firm a partnership?

21 MR. WARD: The question present
22 tense?

23 Q. Is it now a partnership?

24 A. I'm not sure what --

25 Q. What was it when you retired?

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1 A. I'm not even sure of that, because there
2 were changes that were made, I know, from time to
3 time. And I -- I cannot tell you what the exact -- I
4 mean it's a matter of record, but I can't -- I can't
5 tell you. Most of the time I was there, it was a
6 partnership.

7 But in the 80's, things began to change,
8 and there were P. C.'s, all sorts of different ways
9 of organizing. And my answer is I don't know.

10 Q. Are you aware of whether or not Shook
11 Hardy & Bacon has any insurance, if it's found liable
12 in the case brought against it by the State of
13 Oklahoma?

14 MR. SUNDERMEYER: Objection, that
15 is totally and utterly beyond any permissible scope
16 of a jurisdictional deposition.

17 MR. SCARBORO: Same objections,
18 same instruction.

19 Q. I assume you're not going to answer --

20 A. Correct.

21 Q. -- on advice of counsel.

22 Do you have any continuing financial
23 interest in the law firm of Shook Hardy & Bacon?

24 A. I think not.

25 Q. They bought you out when you retired, did

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1 they?

2 A. We had a plan for retiring partners. And
3 it's been paid out. As I say, I can go in -- there's
4 a joint office and -- but my parking place is gone,
5 I'm not getting any money.

6 MR. SUNDERMEYER: It's tough these
7 days.

8 MS. NIAL: You guys are really
9 hard.

10 Q. Another question and maybe one or two
11 more.

12 Did you happen to meet with any lawyers
13 from Covington & Burling before this deposition?

14 MR. WARD: You mean in preparation
15 for the deposition?

16 MS. NIAL: Yes.

17 Q. In preparation for this deposition.

18 A. No.

19 Q. How about Arnold & Porter, did you meet
20 with anybody from Arnold & Porter before this
21 deposition?
22 A. No.
23 Q. So you only met with Shook Hardy & Bacon
24 lawyers and Mr. Ward; is that correct?
25 A. Mike, Gene, Larry. I mean there were

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1 others from time to time, but they would have been
2 from Mike's office or our office.
3 Q. So you didn't meet with, for example,
4 lawyers from Debevoise & Plimpton.
5 A. No.
6 Q. Or Skad & Arps (ph)?
7 A. (Shook head.)
8 Q. No other lawyers from any other law firm.
9 One other question. Did you have an
10 occasion to read the Sarokin opinion, issued by
11 Judge Sarokin in the Haines case?
12 A. Well, probably a long time ago, uh-huh.
13 I'm not sure. Can you tell me when that opinion was.
14 Q. '92.
15 A. '92. Probably read it.
16 Q. Did you notice, when you read that
17 opinion, that you were quoted quite extensively?
18 A. Well, whatever quite extensively is my
19 name appeared in the opinion.
20 Q. Several times. Do you remember -- I can
21 get a copy of that.

22 MS. NIAL: Do we have a copy of
23 that order here?
24 (Whereupon, Shinn Deposition
25 Exhibit No. 2 was marked for identification.)

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1 Q. There's one or two documents that are
2 quoted in here that I'd sort of like to talk to you
3 about, if you don't mind. And I recognize the
4 history of this opinion. I'm not trying to hide it.
5 We know that the Third Circuit wasn't happy with some
6 of the things that Judge Sarokin said. But the
7 document -- nevertheless, the quotes are there.
8 One in particular, on Page 35, talks
9 about -- I think your lawyers's looking through that
10 right now.

11 If you would read the quote, and then
12 I'll ask you a question about it.
13 MR. SCARBORO: I'm going to object,
14 and instruct the witness not to answer about any
15 opinions he has or knowledge he has about the
16 substance of what's said in this document, unless you
17 can show me that it's somehow related to
18 jurisdictional discovery, on the basis of the
19 objections we've already made. And we'd instruct the
20 witness not to answer on the basis of those
21 objections. I see no point in having the witness
22 read Judge Sarokin's -- you can read it.

23 MS. NIAL: I wasn't going to ask
24 him to read it out loud. You were prejudging my
25 question.

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1 MR. SCARBORO: I apologize.
2 MS. NIAL: If you'd let me ask the
3 question and then object, that's sort of the way it's

4 done, isn't it?
5 MR. SCARBORO: It is usually. But
6 we can certainly cut short, as far as I'm concerned,
7 because I'm going to object, unless there is some
8 showing that this is connected with jurisdiction,
9 other than just rhetorical question asking.
10 MR. MEYER: For the record, we
11 believe all of these questions are connected with
12 jurisdiction, as we said earlier on; and that the
13 opinion that was issued on March 5, 1997 takes into
14 it the decisions that were made on December 2nd,
15 1996; December 3rd, 1996; February 10 of 1997,
16 February 17 of 1997; and that we believe everything
17 as set out in there that we've asked today is in fact
18 jurisdictional.
19 But are you instructing him not to read?
20 MR. SCARBORO: No. Go ahead
21 please. I just thought maybe we could cut this
22 short.
23 MR. WARD: They'd like for you to
24 read --
25 MS. NIAL: Not to read it out loud.

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1 Just read it to yourself is fine.
2 MR. WARD: Yeah, the quotation
3 beginning on Page 35.
4 MR. SCARBORO: This is an opinion
5 of a District Judge of the United States District
6 Court for the District of New Jersey.
7 MS. NIAL: A great state, the State
8 of New Jersey.
9 MR. SCARBORO: So stipulated. One
10 of the best.
11 A. Okay.
12 Q. I think we've now degenerated it to
13 whatever.
14 But, nevertheless, I just had one or two
15 questions on this. Do you recall the November 15th,
16 meeting that Mr. Seligman is referring to?
17 MR. SCARBORO: Same objections,
18 same instruction.
19 Q. And the same response on advice of
20 counsel, you won't answer.
21 A. (Nodded head.)
22 Q. Do you remember any of the statements
23 that have been quoted by Mr. Seligman in his
24 memorandum to file?
25 MR. SCARBORO: Same objections,

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1 same instruction.
2 MR. WARD: Same.
3 A. Accepted.
4 Q. The same response.
5 Do you recall that the CTR was in fact
6 set up for public relations purposes?
7 MR. SCARBORO: Same objections,
8 same instruction.
9 Q. And that it was used as an industry
10 shield, do you recall that CTR was used as a industry
11 shield?
12 MR. SCARBORO: Same objections,
13 same instruction.
14 MS. NIAL: I think there was one

15 other document that I wanted to ask you about, that's
16 quoted in this opinion.

17 You know what, we'll put this opinion
18 aside. I won't ask you any more about it.

19 Q. (By Ms. Nial) Just jumping back, for one
20 second, one more question on CTR.

21 Are you aware that CTR is a trade
22 association under the federal tax code --

23 MR. SCARBORO: Same objection.

24 Q. -- identified as a 501C6 corporation?

25 MR. SCARBORO: I apologize for

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1 interrupting. Same objections, same instruction.

2 A. Accepted.

3 MR. MEYER: For the record, at this
4 time, Mr. Ward, it's my understanding that unless
5 there's any objection by counsel, that we will
6 adjourn at this time today, being May 20th, 1997,
7 till 1:30 o'clock PM tomorrow, May 21, 1997.

8 MR. WARD: Yes, that's agreeable.

9 MR. MEYER: And that we will be
10 able to utilize this room, as well?

11 MR. WARD: Yes. Absolutely.

12 MR. MEYER: We'll close the record.

13 (Witness excused at 1:00 PM.)

14

15

WILLIAM W. SHINN, VOL. I

16

17 STATE OF _____)

18) SS:

19 COUNTY OF _____)

20

21 Subscribed and sworn to before me this.
22 _____ day of _____, 19____.

23

24

25

NOTARY PUBLIC

26

27 My Commission Expires_____

28

29 In re: State of Oklahoma v. R. J. Reynolds, et al.

30

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1 C E R T I F I C A T E

2

3 I, RITA M. LUPERCIO, a Certified
4 Shorthand Reporter within and for the States of
5 Kansas and Missouri and a Notary Public within and
6 for the State of Missouri, hereby certify that the
7 within-named witness was first duly sworn to testify
8 the truth, and that the deposition by said witness
9 was given in response to the questions propounded, as
10 herein set forth, was first taken in machine
11 shorthand by me and afterwards reduced to writing
12 under my direction and supervision, and is a true and
13 correct record of the testimony given by the witness.

14

15 I further certify that during the course
16 of the taking of said deposition, that questions were
17 asked objected to, and, as agreed to by counsel, when
18 the witness did not answer, said questions were to be

11 referred to the Court for direction, and I hereby
12 certify said questions to Your Honor for direction,
13 as found on Page 20, Line 5; Page 23, Line 17; Page
14 24, Line 6; Page 43, Line 18; Page 45, Line 10; Page
15 47, Line 7; Page 59, Line 9; Page 78, Lines 12 and
16 19; Page 80, Line 17; Page 82, Lines 2 and 23; Page
17 85, Lines 5 and 23; Page 86, Lines 18 and 22; Page
18 87, Line 2; Page 89, Line 23; Page 91, Lines 2 and
19 14; Page 93, Line 5; Page 94, Lines 14, 18 and 21;
20 Page 95, Lines 7, 13 and 24; Page 96, Lines 6, 16 and
21 122; Page 97, Lines 2 and 14; Page 98, Line 10; Page
22 98, Line 25; Page 99, Line 13; Page 102, Line 21;
23 Page 103, Lines 4 and 23; Page 104, Lines 4, 8 and
24 14; Page 109, ine 4; Page 110, Lines 2, 8 and 19;
25 Page 112, Line 10; Page 117, Lines 14 and 22; Page
118, Lines 5, 9 and 21.

19 I further certify that I am not a
20 relative or employee or attorney or counsel of any of
21 the parties, or relative or employee of such
22 attorneys or counsel, or financially interested in
23 the action.

22 WITNESS my hand and official seal at
23 Kansas City, Jackson, Missouri, this 21st day of May,
24 1997.

24 RITA M. LUPERCIO, CCR
25 Certified Court Reporter #218